

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

ALEJANDRO MENOCA,
MARCOS BRAMBILA,
GRISEL XAHUENTITLA,
HUGO HERNANDEZ,
LOURDES ARGUETA,
JESUS GAYTAN,
OLGA ALEXAKLINA,
DAGOBERTO VIZGUERRA, and
DEMETRIO VALERGA
on their own behalf and on behalf of all others
similarly situated,

Plaintiffs,

Civil No. 1:14-cv-02887-JLK

v.

THE GEO GROUP, INC.,

Defendant.

**DECLARATION OF MICHAEL J. SCIMONE IN SUPPORT OF PLAINTIFFS’
MOTION FOR SUMMARY JUDGMENT ON DEFENDANT’S AFFIRMATIVE
DEFENSE**

I, Michael J. Scimone, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am a Partner with the law firm Outten & Golden LLP, which, together with Towards Justice, the Law Office of R. Andrew Free, Milstein Law Office, The Kelman Buescher Firm, P.C., and Meyer Law Office, P.C., are Class Counsel in this action. I am an attorney in good standing admitted to practice before this Court.

2. I have been one of the lawyers primarily responsible for the prosecution of Plaintiffs’ and the Class’s claims in this case.

3. I make the statements in this Declaration based on my personal knowledge and would so testify if called as a witness at trial.

Exhibits

4. Attached hereto as **Exhibit A** is a true and correct copy of excerpts from the October 9, 2019 deposition of Amber Martin.

5. Attached hereto as **Exhibit B** is a true and correct copy of excerpts from the 2011 Contract, bates stamped GEO_MEN 00019613-817. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

6. Attached hereto as **Exhibit B.1** is a true and correct copy of the 2011 Contract amendment, bates stamped GEO_MEN 00020406-18. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

7. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from the 2006 Contract, bates stamped GEO-MEN 00059635-708. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

8. Attached hereto as **Exhibit D** is a true and correct copy of excerpts from the 2003 Contract, bates stamped GEO-MEN 00059744-803. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

9. Attached hereto as **Exhibit E** is a true and correct copy of the declaration of Tae D. Johnson in *State of Washington v. GEO Group, Inc.*, Case No. 17-cv-05806 (W.D. Wash), ECF No. 91.

10. Attached hereto as **Exhibit F** is a true and correct copy of excerpts from the February 27, 2020 30(b)(6) deposition of Daniel Ragsdale.

11. Attached hereto as **Exhibit G** is a true and correct copy of a document entitled Detainee Work Plan, bates stamped GEO_MEN 00038529-35. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

12. Attached hereto as **Exhibit H** is a true and correct copy of a document entitled ICE Detainee Work Program, bates stamped GEO_MEN 00038563-67. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

13. Attached hereto as **Exhibit I** is a true and correct copy of excerpts from the March 12, 2020 deposition of James Charles Hill.

14. Attached hereto as **Exhibit J** is a true and correct copy of excerpts from the February 12, 2020 deposition of Barbara Krumpelmann.

15. Attached hereto as **Exhibit K** is a true and correct copy of the Declaration of Shannon Ely, Contracting Officer, ICE Office of Acquisition Management.

16. Attached hereto as **Exhibit L** is a true and correct copy of excerpts from the 2011 PBNDS, bates stamped GEO-MEN 00064019-414.

17. Attached hereto as **Exhibit M** is a true and correct copy of excerpts from the 2008 PBNDS, bates stamped GEO-MEN 00062905-3298.

18. Attached hereto as **Exhibit N** is a true and correct copy of excerpts from the INS Detention Standard, bates stamped GEO-MEN 00063671-4017.

19. Attached hereto as **Exhibit O** is a true and correct copy of excerpts from the November 19, 2019 deposition of Kevin Martin.

20. Attached hereto as **Exhibit P** is a true and correct copy of excerpts from the March 29, 2016 30(b)(6) deposition of Dawn Ceja.

21. Attached hereto as **Exhibit Q** is a true and correct copy of an excerpt from the ACA Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, containing Standards ALDF-1A-01 and ALDF-1A-04.

22. Attached hereto as **Exhibit R** is a true and correct copy of excerpts from the February 28, 2020 30(b)(6) deposition of Amber Martin.

23. Attached hereto as **Exhibit S** is a true and correct copy of an excerpt from the ACA Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, containing Standard ALDF-5C-08.

24. Attached hereto as **Exhibit T** is a true and correct copy of excerpts from the October 3, 2019 deposition of Cheryl Nelson.

25. Attached hereto as **Exhibit U** is a true and correct copy of a compilation of all versions of GEO Policy Number 12.1.4 – AUR throughout the class period, bates stamped GEO_MEN 00038687-98, GEO_MEN 00038653-64, GEO_MEN 00038676-86, GEO_MEN 00038628-31, GEO_MEN 00038665-75, GEO_MEN 00038632-39, GEO_MEN 00038613-15, GEO_MEN 00038625-27, GEO_MEN 00007203-06, GEO_MEN 00038649-52, GEO-MEN 00099980-83, and GEO-MEN 00088208-11. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

26. Attached hereto as **Exhibit V** is a true and correct copy of the Aurora Local Detainee Handbook, 2002 version, bates stamped GEO_MEN 00040731-75. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

27. Attached hereto as **Exhibit W** is a true and correct copy the Aurora Local Detainee Handbook, 2013 version, bates stamped PL000029-55.

28. Attached hereto as **Exhibit X** is a true and correct copy of excerpts from a document entitled Detainee Orientation Video, bates stamped GEO_MEN 00052387.¹ This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

29. Attached hereto as **Exhibit Y** is a true and correct copy of a document entitled 10.2.11-AUR, Special Management Unit Operations, bates stamped GEO_MEN 00037770-84. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

30. Attached hereto as **Exhibit Z** is a true and correct copy of a compilation of disciplinary charges and reports related to failure to clean, bates stamped GEO_MEN 00057697, GEO_MEN 00047810, GEO_MEN 00047812-17, GEO-MEN 00065434, GEO-MEN 000659393, GEO-MEN 00065211, and GEO-MEN 00065032-33. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

31. Attached hereto as **Exhibit AA** is a true and correct copy of a document entitled Detainee Work Detail Application, bates stamped GEO_MEN 00057594. This exhibit has been filed as a restricted document in accordance with D. Colo. L. Civ. R. 7.2.

32. Attached hereto as **Exhibit BB** is a true and correct copy of a document entitled Facility Voluntary Work Program Pay Rates between 2011 and 2014, bates stamped GEO-MEN 00170339.

¹ The page numbers in this document were added by counsel for ease of reference, in accordance with the Court's standing order re pretrial and trial procedures in civil cases, Section III.E.2.(b).v.

33. Attached hereto as **Exhibit CC** is a true and correct copy of Defendant The GEO Group Inc's Second Supplemental Responses to Plaintiffs' Fifth Set of Interrogatories.

Dated: New York, NY
April 29, 2020

Respectfully submitted,

By: /s/ Michael J. Scimone
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Class Counsel

Menocal, et al. v. The Geo Group,
1:14-cv-02887-JLK

<u>Index of Exhibits to Declaration of Michael J. Scimone in Support of Plaintiffs' Motion for Summary Judgment as to Defendant's Defense</u>		
<u>Exhibit</u>	<u>Restricted</u>	<u>Description</u>
A		Excerpts from the October 9, 2019 deposition of Amber Martin.
B	Yes	Excerpts from the 2011 Contract, GEO_MEN 00019613-817.
B.1	Yes	2011 Contract amendment, GEO_MEN 00020406-18.
C	Yes	Excerpts from the 2006 Contract, GEO-MEN 00059635-708.
D	Yes	Excerpts from the 2003 Contract, GEO-MEN 00059744-803.
E		Declaration of Tae D. Johnson in State of Washington v. GEO Group, Inc., Case No. 17-cv-05806 (W.D. Wash), ECF No. 91.
F		Excerpts from the February 27, 2020 30(b)(6) deposition of Daniel Ragsdale.
G	Yes	Document entitled Detainee Work Plan, GEO_MEN 00038529-35.
H	Yes	Document entitled ICE Detainee Work Program, GEO_MEN 00038563-67.
I		Excerpts from the March 12, 2020 deposition of James Charles Hill.
J		Excerpts from the February 12, 2020 deposition of Barbara Krumpelmann.
K		Declaration of Shannon Ely, Contracting Officer, ICE Office of Acquisition Management.
L		Excerpts from the 2011 PBNDS, GEO-MEN 00064019-414.
M		Excerpts from the 2008 PBNDS, GEO-MEN 00062905-3298.
N		Excerpts from the INS Detention Standard, GEO-MEN 00063671-4017.
O		Excerpts from the November 19, 2019 deposition of Kevin Martin.
P		Excerpts from the March 29, 2016 30(b)(6) deposition of Dawn Ceja.
Q		Excerpt from the ACA Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, containing Standards ALDF-1A-01 and ALDF-1A-04.
R		Excerpts from the February 28, 2020 30(b)(6) deposition of Amber Martin.
S		Excerpt from the ACA Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, containing Standard ALDF-5C-08.
T		Excerpts from the October 3, 2019 deposition of Cheryl Nelson.
U	Yes	Compilation of all versions of GEO Policy Number 12.1.4 – AUR throughout the class period, GEO_MEN 00038687-98; GEO_MEN 00038653-64; GEO_MEN 00038676-86; GEO_MEN 00038628-31; GEO_MEN 00038665-75; GEO_MEN 00038632-39; GEO_MEN 00038613-15; GEO_MEN 00038625-27; GEO_MEN 00007203-06; GEO_MEN 00038649-52; GEO-MEN 00099980-83; and GEO-MEN 00088208-11.
V	Yes	Aurora Local Detainee Handbook, 2002 version, GEO_MEN 00040731-75.
W		Aurora Local Detainee Handbook, 2013 version, PL000029-55.
X	Yes	Excerpts from document entitled Detainee Orientation Video, GEO_MEN 00052387.
Y	Yes	Document entitled 10.2.11-AUR, Special Management Unit Operations, GEO_MEN 00037770-84.
Z	Yes	Compilation of disciplinary charges and reports related to failure to clean, GEO_MEN 00057697; GEO_MEN 00047810; GEO_MEN 00047812-17; GEO-MEN 00065434; GEO-MEN 000659393; GEO-MEN 00065211; and GEO-MEN 00065032-33.
AA	Yes	Document entitled Detainee Work Detail Application, GEO_MEN 00057594.

Menocal, et al. v. The Geo Group ,
1:14-cv-02887-JLK

<u>Index of Exhibits to Declaration of Michael J. Scimone in Support of Plaintiffs' Motion for Summary Judgment as to Defendant's Defense</u>		
<u>Exhibit</u>	<u>Restricted</u>	<u>Description</u>
BB		Document entitled Facility Voluntary Work Program Pay Rates between 2011 and 2014, GEO-MEN 00170339.
CC		Defendant The GEO Group Inc's Second Supplemental Responses to Plaintiffs' Fifth Set of Interrogatories.

Exhibit A

Amber Martin
October 09, 2019

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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLORADO

CASE NO. 1:14-cv-02887-JLK

ALEJANDRO MENOCA, et al.,
Plaintiffs,

-vs-

THE GEO GROUP, INC.,
Defendant.

_____ /

DEPOSITION OF AMBER MARTIN
Pages 1 Through 209

Wednesday, October 9, 2019
8:58 a.m. - 3:21 p.m.

951 Yamato Road
Suite 285
Boca Raton, Florida 33431

Stenographically Reported By:
Nancy Cannizzaro, RMR
Registered Merit Reporter

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BY: COLIN L. BARNACLE, ESQUIRE

1 Q. Okay. So you said -- so your current --
2 well, I'm going to focus most of my questions today on
3 the period from 2004 to 2014.

4 A. Okay.

5 Q. And so just keep that in mind. It's kind
6 of a framing point. But please specify if it's unclear
7 or ask me to clarify if it's unclear what time period I'm
8 focusing on. So I'm going to focus, I think, mostly on
9 the role in contract administration.

10 So can you -- you said that involves
11 responsibility for administration and negotiation of
12 contracts and modifications. Did I get that right?

13 A. Yes.

14 Q. Okay. And is that -- you have an executive
15 role at that --

16 A. Yes.

17 Q. -- in that area?

18 And so how many direct reports do you have?

19 A. Seventeen.

20 Q. I won't ask you to name them all, but can
21 you describe their roles or titles?

22 A. I have two particular departments within
23 contract administration. One is research and
24 development; so I have a senior director over that. And
25 then the other is basically administering the

1 modifications and clarifying all the financial aspects;
2 so I have a senior director over finance. And there are
3 people underneath both of them.

4 Q. Who is the senior for R&D?

5 A. His name is Dan O'Donnell.

6 Q. And the other person, is that a director of
7 finance, did you say?

8 A. Yes. Senior director of finance.

9 Q. Senior director. Who is in that title?

10 A. Andrew Grossman.

11 Q. And when you say "administering contract
12 modifications," what does that entail?

13 A. Once modifications have been finalized --
14 negotiated and finalized, they will come through.
15 They're tracked. They make sure that everything is, you
16 know, complete and correct and accurate on the
17 modification. If there is anything that's not accurate,
18 then they go back to the client and, you know, work those
19 things out. Once that comes in, then we have a database.
20 They distribute things. They make sure they're, you
21 know, up in the database with the contracts and
22 everything is correct.

23 Q. And has that general sort of overview you
24 described been consistent in the period from 2004 to
25 2014?

1 A. It became more formal in 2011.

2 Q. Okay. In what way?

3 A. That we introduced a contract database. It
4 came more to put the technology more up to date.

5 Q. So when you say that you review the
6 modifications to make sure they're complete, correct, and
7 accurate, what are you reviewing for accuracy? Is that a
8 preexisting contract you're looking at or something else?

9 A. When we're talking about modifications,
10 we're modifying the existing contracts and we're looking
11 for accuracy, as far as terminology, financial aspects,
12 dates, you know, and everything that we've agreed to is
13 in the modification.

14 Q. Okay. About how many people work in the
15 research and development department?

16 A. Well, the research and development
17 department also has the satellite office, which is in
18 Boulder.

19 Q. About how many people work there?

20 A. There's four people that work there and
21 then there's four that work in the corporate office. So
22 eight.

23 Q. Okay. And where is the finance department
24 located?

25 A. In Boca, the corporate office.

1 BY MR. SCIMONE:

2 Q. 37755.

3 A. Okay. I'm sorry. I'm missing a 5.

4 Q. Just above the Bates number in the last
5 line of the e mail, you see where it says "NLT"?

6 A. No later than.

7 Q. I'm sorry, what is that?

8 A. No later than.

9 Q. Oh, no later than. Got it. I was
10 wondering about that.

11 So once these PBNDS changes are
12 incorporated into facility-level policies, you said
13 they're communicated typically to ICE. Who at ICE are
14 they communicated to?

15 A. Their on-site auditor, their COTR.

16 Q. That's the technical representative?

17 A. Yes.

18 Q. Okay. And do you know what ICE -- ICE's
19 review process is from there?

20 A. I don't know.

21 Q. Okay. You have no visibility into that
22 process at all?

23 A. No. I don't think they think I need to
24 know that.

25 Q. Okay. And -- withdrawn.

1 Okay. Let me back up a little bit. I'm
2 going to take a step back. So how long has GEO had a
3 contract to operate the Aurora facility?

4 A. The Aurora facility was the first facility
5 for GEO, so it's around the 1986, '87 era.

6 Q. First facility for ICE?

7 A. First facility ever.

8 Q. Oh, okay. And that contract has been
9 renewed over time, I take it?

10 A. Yes.

11 Q. How many times has it been renewed?

12 A. I can't recollect.

13 Q. Okay. When was the current version signed,
14 the current contract?

15 A. I think a couple of years ago. I have to
16 look.

17 Q. Do you know when the prior iteration of a
18 contract was signed before that one?

19 A. No. I'm assuming they're five-year
20 contracts.

21 Q. Okay.

22 A. Okay.

23 Q. Okay. Typically -- just about sort of the
24 process from one version of the contract to the next, is
25 it typical that there are modifications from one period

1 of -- one term of a contract to the next one?

2 A. Okay. When you're saying from one contract
3 to the next or one term?

4 Q. Yeah. So you had said you assume they're
5 typically five-year contracts. So when one contract
6 period is ending, there's a renewal of the contract?

7 A. Well, it usually goes out for an RFP and
8 there's a competition. So it's not necessarily a
9 renewal; it's a brand new contract.

10 Q. Okay. RFP is request for proposal?

11 A. Yes.

12 Q. Okay. And can you just kind of walk me
13 through that overall process of the RFP. How does that
14 work?

15 A. Request for proposal goes out on a
16 government data line, which is called FedBizOpps. So
17 it's open to whoever wants to bid on those contracts. It
18 gives timelines as far as, you know, ability to ask
19 questions, to respond to the RFP. And then there's a
20 review process, just like any other request for proposal
21 process. It's pretty much standard throughout federal,
22 state governments, local governments. And then they
23 grade the proposal and award the contract.

24 Q. Okay. I don't have a lot of familiarity
25 with the federal contracting process, so I'm going to ask

1 Q. Okay. And so for the sanitation aspect,
2 who -- I'll ask, from the 2004 to 2014 time frame, who or
3 what office was responsible for drafting those aspects of
4 the Technical Proposal?

5 A. It could have been a combination. I don't
6 know.

7 Q. Okay.

8 A. I don't know if it would have been our
9 operations folks. I know that that would have all fallen
10 under the business development people to identify who
11 their subject-matter expert was. So I couldn't answer
12 who they would have picked.

13 Q. So not a particular department then?

14 A. Not necessarily.

15 Q. Okay. In a case like that, would it be
16 typical to identify a subject-matter expert from the
17 facility level to be responsible for that?

18 A. Sometimes they brought facility level in,
19 sometimes they brought regional level in. Like I said,
20 it was their determination on who they wanted to bring in
21 to assist in responding to the proposal.

22 Q. Okay. Do you know who was responsible for
23 drafting the sanitation policies that are currently in
24 place at Aurora?

25 A. It would have been the facility.

1 Q. Okay. And the sanitation policies that
2 were in effect from 2004 to 2014, do you have any idea
3 who was responsible for drafting those originally?

4 A. No.

5 Q. If I wanted to find out that information,
6 is there a way to do that? Is there someplace --

7 A. For the policies?

8 Q. Yeah. Who was responsible for originally
9 drafting those?

10 A. Let me go back. When a facility is
11 awarded -- when we're awarded a contract and it's a brand
12 new facility, there's regional oversight starting
13 policies and operations and all of that, because you
14 don't have all your facility administration there.

15 Q. Right.

16 A. So regional takes the lead on, you know,
17 developing policies when a facility first opens.

18 Now, after that, you know, all of it goes
19 through the client to get approved before being
20 instituted on the facility. After that, any updates and
21 changes and policies and procedures are handled by the
22 facility. From a contract to a contract, it would most
23 likely have been the same policies and updated along the
24 timelines, you know, when they needed to be updated, when
25 they were reviewed annually, those type of things.

1 So when I say "the facility is responsible
2 for," they're responsible for maintaining those
3 operations on a day-to-day, but there's things that began
4 when a new contract begins.

5 Q. Okay. Thank you. So the original policies
6 from Aurora would have been created probably back in 1986
7 at least?

8 A. And that would have probably been at the
9 corporate level, because we were a smaller group then.

10 Q. And that was the first facility that was
11 opened?

12 A. Yes.

13 Q. Okay.

14 A. We've evolved.

15 Q. I'm sure. Can you speak to the process
16 again during a renewal for the RFP process. When there's
17 a Technical Proposal on a particular aspect like this,
18 can you speak to the process of how that's developed
19 internally at GEO. In other words, it's created -- you
20 mentioned the subject-matter expert. Is there then a
21 further process of renewing that?

22 A. Yes. Like I said, business development has
23 a whole process on how they answer, review, et cetera.
24 I'm not really involved in that.

25 Q. Okay.

1 titled "Statement of Objectives" at the top. Under the
2 introduction, Section A, second sentence in -- well, the
3 first sentence -- I'm just picking up about halfway --
4 no, the second sentence: "ICE is reforming the
5 immigration detention system to move away from a penal
6 model of detention." Do you see that?

7 A. I'm sorry. Oh, yes.

8 Q. Okay. What's your understanding of what
9 that means?

10 A. I don't know. I mean, I guess from the
11 prison-life atmosphere to a civil atmosphere.

12 Q. Are you familiar with that policy? Has
13 that been something that's part of your work?

14 A. I'm sorry?

15 Q. Well, are you familiar with that policy,
16 moving from a penal model to a more civil detention
17 model?

18 A. I know that's where ICE has been -- is
19 heading, just like everyone else is.

20 Q. And the next sentence begins: "A key goal
21 of reform is to create a civil detention system that is
22 not penal in nature..."

23 What is that -- do you understand what the
24 reference to "reform" refers to? Is there a particular
25 initiative or project that that's referring to?

1 A. No. Not that I know of.

2 Q. Do you know when that shift began?

3 A. No. I guess during this time period.

4 Q. From your experience at The GEO Group
5 during this time frame, do you have a general sort of
6 sense of the time frame in which there was a shift from a
7 penal model to a civil detention model?

8 A. Well, the shifts began with the new ICE.
9 Obviously, with the 2008 PBNDS standards, reforms in the
10 2011 PBNDS standard, the optimal standards that came out
11 after that. I mean, there's been reform, as you put it,
12 all along.

13 Q. So is that -- those reforms reflect
14 principally to the changes in the PBNDS? Is that --

15 A. Yeah. That's definitely a big influence.

16 Q. If you'll turn to page 656.

17 MR. BARNACLE: I'm sorry, what did you just
18 say?

19 MR. SCIMONE: Page 656.

20 BY MR. SCIMONE:

21 Q. This section actually begins on the prior
22 page titled "Constraints." And it says: "The following
23 constraints comprise the statutory, regulatory, policy
24 and operational considerations that will affect the
25 Contractor." And to direct your attention down to

1 Item 10 on the following page, it lists the PBNDS there.
2 I think you said this earlier, but does this mean that
3 the PBNDS is effectively incorporated as part of this
4 contract?

5 A. Yes, it is.

6 Q. All right. And these other line items are
7 also -- and compliance with these other items here is
8 also part of the contract?

9 A. Yes. They're all included in the contract.

10 Q. Okay. You can put that aside.

11 A. Okay.

12 Q. We're going to refer back to all these, I'm
13 sure.

14 (Plaintiff Exhibit No. 10 was marked for
15 identification.)

16 BY MR. SCIMONE:

17 Q. Exhibit 10 is Bates stamped GEO-MEN 10553
18 through 592. Take a moment to review and let me know
19 when you're ready.

20 A. Okay.

21 Q. Do you recognize this document?

22 A. I don't recognize this document, no.

23 Q. It's titled "Summary of Major Changes
24 Between the 2008 and 2011 Performance-Based National
25 Detention Standards," just to give a sense of time frame.

1 From looking through, do you have any sense
2 of how this document was used or it may have originated?

3 A. This appears to be during a time that the
4 optimal non-mandatories and optimal mandatories came out,
5 as I was referring to before. But without specifically
6 looking through and making sure of that, but this appears
7 to be when those reviews came about. So I'm guessing
8 about 2013.

9 Q. Does this appear to you to be a document
10 that originated with ICE?

11 A. I don't know. It's not numbered or
12 anything, so I don't know where it would be originated
13 from.

14 Q. Okay. If you'll look near the bottom of
15 the first page, bottom third or so, there's a reference
16 here to optimal provisions. I think you spoke earlier
17 about optimal aspects of the PBNDS.

18 A. Uh-huh.

19 Q. Can you explain your understanding of what
20 that means in practice.

21 A. There's optimal provisions and there's
22 optimal non-mandatory provisions and optimal mandatory
23 provisions. Some of these non-mandatory provisions, like
24 I said, came about to enhance some of these provisions
25 that possibly had issues with physical structure, some

1 things that a facility -- standalone facilities could not
2 comply with, but they were researched to see "How many of
3 these can you comply with?" "How many of these can you
4 comply with that's going to be a larger cost?" and that
5 was a process. And that happened, like I said, back in
6 2013.

7 Q. The second sentence here says: "Optimal
8 provisions in the standards are not unilaterally
9 binding."

10 A. Correct.

11 Q. "However, implementation of these
12 provisions furthers effective operation of a facility at
13 the level intended by ICE under revised standards."

14 A. Correct.

15 Q. Does that comport with your understanding
16 that an optimal provision is not necessarily a binding
17 one?

18 A. It's not unilaterally binding. It can be
19 bilaterally binding.

20 Q. What does that mean in practice?

21 A. Well, unilateral is if there's -- the
22 change and scope of the contract doesn't affect anything
23 financial, physical structure or change of scope and
24 services so that ICE can unilaterally bind the contractor
25 to that change in the contract even though it's a change

1 of scope.

2 Q. Okay.

3 A. And bilaterally means that we both agree
4 and there's a change -- there's a modified portion of
5 that that may change the price of the contract or may
6 change something else that, you know, changes the
7 operation and gives -- you know, those type of things.

8 But there's two different kinds.
9 Unilateral is, ICE says do it, you do it, and there's no
10 negotiation, et cetera. Unless they say, "You do it,"
11 and we come back and say, "But there is a financial, you
12 know, stance to this that we need to make you aware of,
13 and there's a provision to raise that level up to."

14 Q. So for those -- I think I understand the
15 two categories. Is GEO always required to meet all of
16 the optimal standards or are some of them, I guess,
17 optional?

18 A. No. There's -- okay. In this process, the
19 ones that were optional, as you say, or non-mandatory --

20 Q. Right.

21 A. -- we agreed to -- we mutually agreed to
22 which ones we could follow without having to change or
23 which ones we could follow that the government wanted to
24 pay for. And so those are the standards we have to meet,
25 whatever we agree to bilaterally.

1 Q. And that happened around 2013, I think you
2 said?

3 A. Yeah. I think it was. It may have been a
4 little later, but I think it was 2013, 2014.

5 Q. So the second paragraph under "Optimal
6 Provisions" says: "The PBNDS 2011 thus allows for a
7 range of compliance, to facilitate the immediate
8 implementation of these standards..."

9 What does that mean?

10 A. I have no idea. I'm hoping there's not a
11 range of compliance as far as meeting standards.

12 Q. Okay. You understand that to mean that
13 there are some areas where a contractor might not
14 bilaterally agree with ICE to meet a certain standard and
15 ICE might then permit that even though it's not -- in
16 other words, it's not a mandatory sort of minimum
17 standard under the PBNDS; it's something that ICE would
18 like to see happen but doesn't necessarily require?

19 A. That's your non-mandatories.

20 Q. Okay.

21 A. That's what your non-mandatories are. It's
22 like ICE would like to see this happen, but it's not
23 required or we mutually agree that it's going to be
24 required. Once it's embedded into the contract, it
25 doesn't matter. If it's non-mandatory, mandatory,

1 whatever, it's part of the contract and it's required.

2 Q. Okay. But there is a category of
3 non-mandatory PBNDS standards that exist?

4 A. Well, they're called optimal non-mandatory.
5 It's just an enhancement of what the standards are
6 already: more square footage or -- I'm just trying to
7 think off the top of my head.

8 Q. Yeah. Just, I guess, for example --

9 A. There is one other issue. There may be
10 where there's a mandatory standard that the facility
11 can't meet it because of restrictions, mainly usually
12 because of physical structure, and there's a process of
13 waivers that ICE can waive.

14 Q. Okay. Who deals with the waiver process at
15 ICE?

16 A. I don't know. I mean, it probably would go
17 through the contracting officer.

18 Q. Okay.

19 A. You know, but it's handled through
20 compliance.

21 Q. Okay.

22 A. It's public. I mean, there's a -- it says
23 what -- it's not only GEO. There's other people that
24 waive standards. I don't know what committee that is.

25 Q. Right. Did you deal with that when you

1 were in -- when you dealt with contract compliance in
2 2000 to 2011?

3 A. No. I mean, the standards 2008, 2011
4 were -- they're kind of probably fairly new in that
5 frame, because I dealt with these in 2013, after I dealt
6 with the contract administration. But as far as
7 compliance levels, we dealt with -- we didn't have any
8 waivers or anything like that. This was the first
9 process of really changing things.

10 Q. Okay.

11 A. Or agreeing to new things.

12 Q. Okay. So maybe this is helpful to talk
13 about in the context of an example. Let me see. Bear
14 with me a minute. Here we go. If you look at 580, so
15 Section 5.4 is recreation. And so there's -- this is
16 major changes in the PBNDS under recreation and detention
17 standard. It says: "Expanded Recreation for General
18 Populations." And below that you'll see "Optimal
19 Recreation for General Populations." And so the first
20 one is, you know: "Detainees shall have at least four
21 hours a day access, seven days a week, to outdoor
22 recreation, weather and scheduling permitted. Outdoor
23 recreation shall support leisure activities, outdoor
24 sports and exercise as referenced and defined by the
25 National Commission on Correctional Health Care

1 Standards, provided outside the confines of the housing
2 structure and/or solid enclosures."

3 So I'm sort of -- I guess I'm trying to
4 understand how this sort of works with respect to the
5 contract. Would GEO, I guess, be asked to provide this
6 level of recreation and then there would be a discussion
7 about whether or not it could in fact comply with that?

8 A. Yes.

9 Q. And then would that typically become a term
10 of the contract or would it simply be left as this is
11 something you can comply -- you can meet, but you don't
12 necessarily have to meet the standard?

13 A. No. They were modified, as you can see
14 with the earlier documentation you showed me. The
15 contract was actually modified.

16 Q. Okay. And if you'll turn to page 105585 --
17 actually, 84. So this deals with Section 5.8, Voluntary
18 Work Program. Are you familiar with that program?

19 A. Yes.

20 Q. Okay. Just in general terms, so that we
21 have a working understanding, what is the Voluntary Work
22 Program?

23 A. It's a program that's offered to the
24 detainees if they want to voluntarily work in
25 subcategories, and they get paid a fee for their service.

1 And it helps with their skills and that type of thing.

2 Q. If you look at the next page, 585, at the
3 very top, it says: "Compensation: The required
4 compensation for work was increased from \$1.00 per day to
5 'at least \$1.00 per day.'" Do you see that?

6 A. Yes.

7 Q. Before this change, it was just \$1 per day?

8 A. Yes.

9 Q. And this increased it?

10 A. Increased the ability to do more than \$1 a
11 day.

12 Q. So --

13 A. From a contractor's perspective.

14 Q. Okay. In other words, paying more than \$1
15 a day was optional?

16 A. Yes.

17 Q. So does that mean ICE left GEO discretion
18 as to how much it would pay in that program?

19 A. No.

20 Q. Okay. Can you explain.

21 A. The only -- this is a pass-through cost.
22 So the only amounts legislatively that they were allowing
23 was \$1 a day. So that's the only amount that was, you
24 know, like I said, passed through through the contract
25 and invoiced.

1 Q. You say the amounts they were legislatively
2 allowing.

3 A. There was a conflict with this and what ICE
4 was paying for.

5 Q. Can you explain the conflict?

6 A. Well, this said that it was at least \$1 a
7 day, but --

8 Q. Right.

9 A. -- but ICE could not pay for more than \$1 a
10 day according to the statute.

11 Q. Okay. But notwithstanding the fact that
12 ICE couldn't reimburse more than \$1 a day, it was
13 allowing GEO to pay more than \$1 a day?

14 A. Well, we had to get permission from ICE to
15 do that, so that also conflicted with this.

16 Q. Did GEO ever seek permission to pay more
17 than \$1 a day?

18 A. I don't know.

19 Q. This would have been around the 2011 time
20 frame?

21 A. I don't believe that we, at Aurora, did
22 that, no.

23 Q. Okay. So Aurora didn't seek permission to
24 pay more than \$1 a day?

25 A. No. Because we couldn't get paid more than

1 \$1 a day or the detainee couldn't get paid more than \$1 a
2 day.

3 Q. Okay. Let me see if I have it straight.
4 So ICE changed the standards to permit GEO to pay more
5 than \$1 a day, but because GEO wasn't getting reimbursed
6 more than \$1 a day, it didn't seek to increase that
7 amount?

8 A. And ICE couldn't pay more than \$1 a day.

9 Q. But it didn't seek permission from ICE to
10 pay more than \$1 a day?

11 A. Right. Because there wasn't the
12 possibility to pay more.

13 Q. And GEO didn't want to pay it if it wasn't
14 getting reimbursed by ICE?

15 A. Well, it's a contractual requirement as
16 far as we're concerned and we've already priced this.

17 Q. Right. But I guess I'm -- what I'm saying
18 is, the decision was based on the pricing, not whether --
19 not whether GEO was permitted to pay more than \$1 a day.
20 In other words, GEO could have paid more than \$1 a day
21 notwithstanding the fact it wasn't getting reimbursed?

22 A. Well, again, we had to seek permission from
23 ICE to do that.

24 Q. Sure.

25 A. I think the person that put this together

1 was trying to open the door for future issues, so it was
2 more broad and they didn't have to, you know, change this
3 again. ICE couldn't pay more than \$1 a day; we couldn't
4 get reimbursed more than \$1 a day. So this was all
5 conflicted in this statement.

6 Q. Well, I guess I'm trying to understand
7 "conflicted." Because as I --

8 A. If I wanted to go modify a contract and pay
9 \$1.50 a day, ICE could not pay that. So the contract
10 could never be modified.

11 Q. Well, you could pay something without
12 getting reimbursed from ICE if ICE gave you permission to
13 do that, right?

14 A. Yeah. But they couldn't give permission to
15 do that because they couldn't pay more than \$1 a day.

16 Q. No. I understand they couldn't pay more,
17 but they could give permission for GEO to pay more; it
18 would just be a cost borne by GEO, right?

19 A. I guess.

20 Q. Okay. We saw earlier there was a term in
21 the 2006 contract that says that all costs are -- of
22 complying with the contract are to be borne by the
23 contractor?

24 A. Right.

25 Q. So that would then become a cost that GEO

1 would have to bear if it got permission from ICE to pay
2 more than \$1 a day but was still being reimbursed only at
3 \$1 a day?

4 A. Yes. But it would be difficult to modify
5 the contract to do that.

6 Q. More so than any other contract
7 modification?

8 A. Again, because there's strict parameters
9 of ICE can't pay more than \$1 a day, we can't -- if we
10 can't be reimbursed more than \$1 a day, in order to give
11 permission to do something that is outside the realm, it
12 would -- I don't know how that would be done in a
13 contract modification.

14 Q. Well, there are contract modifications --

15 A. I think this would be done outside that. I
16 don't know.

17 Q. Outside what? I'm sorry?

18 A. Like I said, I don't see ICE permitting
19 that as a contract modification since statutorily they
20 can't pay more than \$1 a day and we can't get reimbursed
21 more than \$1 a day. It wasn't just asked along those
22 bases. I guess we could do it on our own dime.

23 Q. Right.

24 A. But the contract was priced this way, et
25 cetera.

1 Q. Right. I guess, procedurally, if GEO made
2 that decision to do this, as you put it, on your own
3 time -- on its own dime, the process for getting that
4 permission from ICE would be -- would it be the same as
5 any other contract modification?

6 A. Yes.

7 Q. So there's a process that's well
8 established to do that, and we talked about it earlier
9 today, right?

10 A. Yes.

11 MR. SCIMONE: Okay. Off the record for a
12 minute.

13 (A discussion was held off the record.)

14 (Plaintiff Exhibit No. 11 was marked for
15 identification.)

16 BY MR. SCIMONE:

17 Q. Okay. Ms. Martin, the court reporter has
18 just handed you Exhibit 11. This has a document
19 identification number at the bottom, a little different
20 than the others. This is 2018-ICLI-0052 2141, running
21 through 2169. I was just getting all that on the record.

22 Do you recognize this document?

23 A. No. I mean, it looks like a detention
24 handbook -- Detainee Handbook for LaSalle Processing
25 Center, but I haven't seen it specifically.

1 Q. Okay. LaSalle Processing Center is a
2 facility operated by The GEO Group?

3 A. Yes, it is.

4 Q. Okay. Is that an ICE detention facility?

5 A. Yes, it is.

6 Q. If you'll look at page 10, there's a
7 section here titled "Voluntary Work Program" at the
8 bottom of the page.

9 A. Okay.

10 Q. First of all, before I ask about this, do
11 you have any responsibility for the contract at LaSalle?

12 A. Yes.

13 Q. Okay.

14 A. I have responsibility over all contracts.

15 Q. Okay. So this Voluntary Work Program
16 section, if you look at the second sentence, says: "Any
17 detainee assigned to work in the kitchen will be paid
18 \$4.00 per day." Do you see that?

19 A. Uh-huh.

20 Q. And laundry work details and barbershop
21 workers will be paid \$3 per day?

22 A. Uh-huh.

23 Q. And then special detail workers are paid \$2
24 a day?

25 A. Yes.

1 Q. And then all other job assignments are \$1
2 per day, correct?

3 A. Correct.

4 Q. The same PBNDS provision applies at LaSalle
5 as applies at Aurora, correct?

6 A. Yes.

7 Q. Okay. So the reimbursement for the LaSalle
8 facility is also \$1 per day for the VWP, right?

9 A. Correct.

10 Q. So this is an example of a case where GEO
11 did in fact opt to pay more, at least in certain jobs,
12 than it was getting reimbursed by ICE, correct?

13 A. Yes.

14 Q. Did GEO get permission from ICE to do that?

15 A. I'm assuming they did.

16 Q. Were you involved in seeking that
17 permission?

18 A. No.

19 Q. Do you know when that happened?

20 A. No. Just an assumption on my part reading
21 this.

22 Q. Okay. Do you know why GEO pays more for
23 these jobs at LaSalle than it does at Aurora?

24 A. No.

25 Q. Do you know if that's still the case at

1 LaSalle? This says, if you look at the first page,
2 revised June 2017.

3 A. I don't know.

4 Q. Okay. And do you know what the -- what the
5 term of the contract at -- of the current contract at
6 LaSalle is?

7 A. LaSalle is an IGSA, which is a different
8 type. It's not a direct contract. It's an
9 Intergovernmental Service Agreement. The actual contract
10 is between the LaSalle Economic Development Division and
11 ICE, and LaSalle then contracts with us to operate the
12 facility. So we don't have a direct contract. This may
13 be why the differences.

14 Q. Okay. So the contract is between GEO and
15 LaSalle?

16 A. Yes.

17 Q. Is that a municipal division: LaSalle?

18 A. Yes. Well, it's a parish, but it's --
19 LaSalle Economic Development Division is who the contract
20 is with.

21 Q. Do you know who pays the difference in the
22 cost of VWP program? The difference meaning the amount
23 over \$1 per day for these specific jobs.

24 A. They would be -- LaSalle would be
25 responsible or GEO would be responsible.

1 Q. So are they approving a proposal that's
2 created in the first instance by GEO?

3 A. I don't know if it has anything to do with
4 the proposal. They have to approve the specific job
5 assignments for the detainees.

6 Q. My question about who decides is about who
7 selects initially what those job assignments are going to
8 be. Is it initiated by GEO or is it initiated by ICE?

9 A. I think it's a combination. They're pretty
10 much normal procedures for kitchen, laundry, janitorial,
11 that type of thing. But the job assignments itself, I
12 mean, if we propose something, they would still have to
13 be approved by ICE. I'm not really sure who instigates
14 that process.

15 Q. Okay. But it's based on a proposal that's
16 created by The GEO Group?

17 MR. BARNACLE: Object to the form.

18 A. I don't know that. I mean, like I said,
19 we're proposing -- there's a Technical Proposal that will
20 have detainee job assignments, voluntary job assignments,
21 but the actual job assignments have to be approved by
22 ICE.

23 BY MR. SCIMONE:

24 Q. Okay. And --

25 A. This is just a general broad perspective.

1 Q. Who would be involved in that process at
2 The GEO Group? Who would know, I guess, where that
3 proposal initiated? Would that be someone in the
4 operations group?

5 A. No. It would probably be done at the
6 facility level. Specific job assignments would be done
7 at the facility level and approved by the ICE COTR at the
8 facility level. Job assignments may vary at different
9 facilities.

10 (Plaintiff Exhibit No. 12 was marked for
11 identification.)

12 BY MR. SCIMONE:

13 Q. You've just been handed a document Bates
14 stamped GEO_MEN 00073000. Do you recognize this
15 document?

16 A. I've -- well, it's from Dana Adams to
17 myself.

18 Q. Do you recognize this to be an e-mail?

19 A. Yes.

20 Q. Who is Dana Adams?

21 A. He was contracting officer for ICE.

22 Q. And this is dated June 16, 2014, correct?

23 A. Yes.

24 Q. And he's writing to you at your GEO Group
25 e-mail address?

1 A. Yes.

2 Q. Okay. And what -- he's within the Office
3 of Acquisition Management; is that correct?

4 A. Yes.

5 Q. So he's -- is he then superior to the
6 contracting officer in terms of rank?

7 A. He is a contracting officer or was a
8 contracting officer. He no longer works for ICE. At
9 this time, back in '14, I'm not sure if he had a
10 supervisory role at the time or not. He started as a CO
11 and he did have a supervisory role later.

12 Q. And is this -- here he's the deputy
13 assistant director. Was this one of the supervisory
14 roles?

15 A. Yes. I'm sorry. I didn't see his title.

16 Q. No problem.

17 So he writes here: "Dear Amber, Another
18 question has come up."

19 And this is -- by the way, the subject line
20 here is "Volunteer Work Program." Do you see that?

21 A. Yes.

22 Q. Okay. So he writes: "Detainees work in
23 some facilities for a dollar a day. What might they be
24 doing in terms of the work they do? I have always
25 thought menial tasks, maybe cleaning, moving things,

1 A. Right. Uh-huh.

2 Q. Okay. Do you want to take a break?

3 A. If you don't mind.

4 Q. That's fine.

5 (Recess from 1:10 p.m. to 1:14 p.m.)

6 BY MR. SCIMONE:

7 Q. Picking up where we just left off, you
8 described prior to a couple of years ago there being an
9 informal policy prohibiting the use of disciplinary
10 segregation for refusal to clean. Was that informal
11 policy written or reflected anywhere?

12 A. No. Like I said, the "not cleaning your
13 room" would not rise to the level of putting somebody in
14 segregation.

15 Q. And is there any sort of documents that
16 would reflect that?

17 A. Currently there is, because I wanted to
18 make sure it was -- there was no doubt the language was
19 clarified, et cetera. I believe there's an updated -- I
20 don't know if it's an updated directive or if it was
21 updated in the handbook.

22 Q. Would that be subject to a contract
23 modification?

24 A. No.

25 Q. Okay. Would it have been an update to

1 policies in the policy manual?

2 A. Like I said, I'm not sure if it was a
3 directive, if it came through the detainee handbook, or
4 if it was a policy at the facility level. I'm not sure.

5 Q. Were you involved in memorializing that
6 policy?

7 A. No.

8 Q. Who was responsible for that?

9 A. I think it was at the operation level.
10 Probably Dave Donohue overall responsible.

11 Q. Did you have any communications with ICE
12 about that policy change?

13 A. I didn't, no.

14 Q. Do you know whether Dave Donohue did?

15 A. I don't know.

16 Q. That would have had to be approved by ICE,
17 correct?

18 A. What?

19 Q. That change to the policy.

20 A. Not necessarily, because these are -- these
21 are layers of what we can -- what we can do, and we have
22 opted not to put anybody in segregation for not cleaning
23 their room. As you will see in the PBNDS, they have a
24 lot of things that go under high to moderate level. One
25 of the things is not cleaning your room. Then they have

1 different sanctions. So we just wouldn't associate a
2 sanction of somebody not cleaning their room to putting
3 them in segregation.

4 Q. But prior to a couple of years ago, that
5 wasn't written down anywhere?

6 A. No. It didn't really need to be, but it
7 wasn't written down anywhere.

8 Q. What led to that becoming a formal policy?

9 A. I just think with the clarity of things
10 going on in the political environment, we just wanted to
11 make sure that things were put in writing and that the
12 language was clear.

13 Q. And a couple of years ago would have been
14 2016?

15 A. Yeah. And don't get me holding as to how
16 many years back this has been. It could have been 2017.

17 Q. Okay. But within the last two years or so?

18 A. Yes.

19 Q. Give or take?

20 A. Uh-huh.

21 Q. That was during the time that this lawsuit
22 was pending, correct?

23 A. I think this lawsuit was pending -- yes, it
24 was.

25 Q. This has been pending since 2014.

1 A. Yes.

2 Q. All right. And you're aware that there are
3 other lawsuits pending currently against The GEO Group
4 related to work done by detainees in ICE detention
5 facilities?

6 A. Yes.

7 Q. And you're aware that one of the
8 allegations in several of those cases has been that GEO
9 requires detainees to do work and threatens them with
10 solitary confinement if they don't. You understand that
11 that's one of the allegations, correct?

12 A. Yes, I do.

13 Q. Okay. And you understand that's an
14 allegation in this lawsuit?

15 A. Yes.

16 Q. Was there any causal connection between
17 those lawsuits being filed and that policy being
18 memorialized and formalized?

19 A. Again, with the political environment, yes,
20 it's probably -- lawsuits probably contributed to that.
21 Although this was not a practice that we've ever done, we
22 just wanted to make sure that it was clearly clarified
23 that it's not being done and it's not going to be done.

24 Q. And if we wanted to look back and verify
25 that it wasn't being done prior to that policy being in

1 Q. Meaning the common areas of the pod -- the
2 housing pod?

3 A. Yes.

4 Q. That's included in what's described in the
5 detainee handbook, according to your reading?

6 A. Yes.

7 Q. Okay. And that's the understanding that
8 GEO applies? In other words, it's not just your personal
9 reading, but that's what GEO's policy is based on. Is
10 that your understanding?

11 A. Yes.

12 Q. Okay. And then you mentioned also on
13 page 64220, that's the Bates number, it's describing the
14 offences --

15 A. Yes.

16 Q. -- and prohibited acts. Number 306 says:
17 "Refusing to clean assigned living area."

18 Is it your testimony that that wording
19 suggests something more than just the cells?

20 A. Yes.

21 Q. What about those words tells you that it's
22 not just the cells?

23 A. Because the assigned common area, the
24 living area, is where detainees eat, recreate, watch
25 television, have programs. That's their area that they

1 live in. It's not just their cell.

2 Q. So isn't that a question of how ICE is
3 defining living area in that document from ICE?

4 A. Yes.

5 Q. And that's -- so you're testifying about
6 GEO's understanding of what assigned living area means?

7 A. Yes.

8 Q. Okay. But there's no communication from
9 ICE, is there, or is there, that defines assigned living
10 area to mean more than just the cell, is there?

11 A. The policy. I mean, the review of the
12 policy. If there was any question about what a common
13 living area is, I mean, in this industry, their housing
14 area is their living area.

15 Q. Okay. So -- and you've never raised this
16 specifically with ICE because you don't see any conflict
17 between the way that this is phrased in the Housing Unit
18 Sanitation Policy and that language in Section 5.8 that
19 we looked at that says: "Detainee shall not be required
20 to work except to do personal housekeeping"?

21 A. No. I don't see any conflict. I see this
22 as a part -- part of an entire book of standards that
23 incorporates that part and incorporates ACA and
24 incorporates the detention handbook, and I think they're
25 all-inclusive.

1 Q. And that's never a topic that you
2 specifically sought to clarify with ICE just to be clear?

3 MR. BARNACLE: Object to the form.

4 A. No. I never specifically sought to clarify
5 it because I thought it was clear through the review of
6 the policy.

7 BY MR. SCIMONE:

8 Q. That was done by the COTR?

9 A. I think so, without knowing the signature.
10 It's definitely an ICE official.

11 Q. Okay. One more topic, I guess. Bear with
12 me.

13 Okay. If you can look at Exhibit I and
14 page 19652.

15 MR. BARNACLE: Do you mean Exhibit 9?

16 MR. SCIMONE: Yes.

17 MR. BARNACLE: Sorry. What's the number
18 again?

19 MR. SCIMONE: 19652.

20 A. Okay.

21 BY MR. SCIMONE:

22 Q. I would like to direct your attention to
23 the last full paragraph just above the two bullet points
24 on that page. It says: "The COTR is responsible for
25 monitoring the performance of work under this contract.

1 In no event, however, will any understanding, agreement,
2 modification, change order or other matter deviating from
3 the terms and conditions of this contract be effective or
4 binding upon the Government unless formalized by proper
5 contractual documents executed by the Contracting
6 Officer." Do you see that?

7 A. Yes.

8 Q. Does that match your understanding of what
9 COTR is authorized to sign off on?

10 A. Yes.

11 Q. Have you ever encountered a situation where
12 a COTR had signed off on something that you understood to
13 be in conflict with the contract?

14 A. I mean, I've encountered where the COTRs
15 directed the facility to do something and the facilities
16 question and ask, "Is this contractually" -- "Can we
17 contractually do this without contracting officer and
18 modification?" In that instance, yes.

19 Q. We had an example earlier today with the
20 firearms --

21 A. Firearms, exactly.

22 Q. -- certification.

23 Okay. So if a COTR -- okay. So that's an
24 example. Is there a situation where the COTR had
25 authorized something that then was put into effect before

CERTIFICATE OF REPORTER

THE STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I, Nancy Cannizzaro, Registered Merit Reporter, certify that I was authorized to and did stenographically report the foregoing deposition of AMBER MARTIN, pages 1 through 207; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED this 23rd day of October, 2019.



Nancy Cannizzaro, RMR

Exhibit E

THE HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STATE OF WASHINGTON,
Plaintiff,
v.
THE GEO GROUP, INC.,
Defendant.

Case No.: 3:17-cv-05806-RJB

DECLARATION OF TAE D. JOHNSON
ASSISTANT DIRECTOR, CUSTODY
MANAGEMENT DIVISION,
ENFORCEMENT AND REMOVAL
OPERATIONS (ERO) UNITED STATES
IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE) DEPARTMENT
OF HOMELAND SECURITY (DHS)

I, Tae D. Johnson, make the following statement under oath subject to the penalty of perjury pursuant to the laws of the United States and the State of Washington:

1. My name is Tae D. Johnson. I am competent to testify in these matters in that I am over the age of majority and I am familiar with the subjects discussed herein.
2. I am a member of the Senior Executive Service serving as the Assistant Director, Custody Management Division, Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), U.S. Department of Homeland Security (DHS), in Washington, D.C. I have held this position since January 2, 2011. My current work address is: 500 12th Street Southwest, Washington, D.C. 20536.

DECLARATION OF TAE JOHNSON
ENFORCEMENT AND REMOVAL OPERATIONS
UNITES STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

- 1 3. I hold a Bachelor of Science degree in accounting from Salisbury University in Salisbury,
2 Maryland.
- 3 4. In 1992, I began my federal career in Salisbury, Maryland with the former Immigration and
4 Naturalization Service (INS). For the past 20 years, I have served as a detention enforcement
5 officer, a supervisory detention enforcement officer, a supervisory immigration enforcement
6 agent and deportation officer with INS and ICE.
- 7 5. Since 2011, while at ICE headquarters, I have served as a Unit Chief of the detention standards
8 compliance unit, as Chief of Staff for the Office of Detention Policy and Planning, as Special
9 Assistant to the Assistant Secretary for ICE, and as Deputy Chief of Staff for the Executive
10 Associate Director for ERO.
- 11 6. In my current position as Assistant Director, I oversee and direct the Custody Management
12 Division, which provides policy and oversight for the administrative custody of more than
13 41,000 detainees daily and roughly 375,000 detainees annually. The Custody Management
14 Division oversees and manages ICE detention operations to provide for the safety, security and
15 care of detainees in ICE custody. The ICE detention system consists of more than 250 local
16 and state facilities operating under intergovernmental service agreements, contract detention
17 facilities, ICE-owned facilities and facilities operated by the Bureau of Prisons.
- 18 7. ICE arranges for detention services through three primary types of arrangements. Service
19 Processing Centers (SPCs) are government-owned facilities and are operated directly by ICE.
20 Contract Detention Facilities (CDFs) are contractor-owned-and-operated facilities at which
21 ICE has contracts with private services providers. Intergovernmental Service Agreements
22 (IGSAs) are agreements between ICE and a state or political subdivision of a state, such as a
23 local government. (8 U.S.C. §1103(11)(A)). Sometimes the state or political subdivision then
24 enters into a subcontractor agreement for a private contractor to operate the facility.
- 25 8. Northwest Detention Center (NWDC) in Tacoma, Pierce County, Washington is a CDF, and
26 is within my chain of authority. NWDC operates pursuant to a performance-based contract,
27 which is a results-oriented method of contracting focused on outputs, quality, and outcomes.
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32 DECLARATION OF TAE JOHNSON
33 ENFORCEMENT AND REMOVAL OPERATIONS
UNITES STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

1 Performance-based contracts do not designate *how* a contractor is to perform the work, but
2 rather establishes the expected outcomes and results that the government expects. It is then the
3 responsibility of the contractor to meet the government's requirements at the price the vendor
4 quoted. The NWDC contract is also a firm-fixed price contract, which means that GEO
5 responded to the government's requirements by quoting fully burdened rates (i.e. bed day rate,
6 transportation rate, etc.) at which it would perform the requirements outlined in the contract's
7 Performance Work Statement (PWS). When contracting for detention services in the Seattle
8 Field Office region, ICE sought a firm-fixed price performance-based contract for a full-service
9 facility that would provide the safe and secure detention, transportation, detention
10 management, and ancillary services for up to 1,575 adult detainees.

11
12 9. I am aware that the State of Washington filed a lawsuit, *State v. GEO*, U.S. District Court
13 Western District of Washington ECF Case No. 3:17-cv-05806-RJB, making certain wage-
14 related claims against ICE's contractor, The GEO Group, INC. (GEO). I am also aware that
15 in a related action, *Nwauzor v. GEO*, U.S. District Court Western District of Washington,
16 ECF Case No. 3:17-cv-05806-RJB, ICE detainees filed a class action lawsuit against GEO
17 alleging an entitlement to minimum wages for participating in the VWP.
18
19

20 10. Aliens whom ICE officers and agents arrest for civil immigration violations are those for
21 whom ICE has probable cause to believe are removable from the United States.¹ When an
22 individual is detained in ICE custody, ICE provides for their care and custody under the
23 agency's detention standards. These standards provide for the health and welfare of ICE's
24 detainees.² ICE ensures its custodial supervision obligations are met through a set of
25 standards and inspections to ensure all types of its facilities implement and adhere to ICE's
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30 ¹ See generally 8 U.S.C. § 1357 (2018); see also, 8 U.S.C. § 1101(a)(3), "[t]he term "alien" means any person not a
citizen or national of the United States."

31 ² See, e.g., <https://www.ice.gov/factsheets/facilities-pbnds>

1 contractual requirements and detention standards. The agency's first set of national detention
2 standards were originally issued in September 2000 to facilitate safe, secure, and humane
3 conditions of confinement, access to legal representation and safe and secure operations
4 across the detention system. The standards established consistency of program operations
5 and management expectations, accountability for compliance and a culture of
6 professionalism.
7
8

9 11. One of the many aspects of ICE's detention standards is the Voluntary Work Program.
10 Among other purposes, the VWP enables detainees to receive an allowance of no less than
11 \$1 per day that they can then save or spend on commissary items. The purpose of the
12 Voluntary Work Program of the 2011 Performance-Based National Detention Standards
13 (PBNDS)³ is to provide detainees opportunities to work and earn money while detained,
14 subject to the number of work opportunities available and within the constraints of the safety,
15 security, and good order of the facility. The intent of the Voluntary Work Program is to
16 reduce the negative impact of confinement through decreased idleness, improved detainee
17 morale, and fewer disciplinary incidents. Money earned through the program also allows
18 detainees to buy commissary goods, and pay for phone calls, etc."
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22 12. ICE administers the VWP in its own Services Processing Centers ("SPCs") and according to
23 the PBNDS. According to the NWDC contract with ICE, GEO should manage a detainee
24 work program.⁴ The contract states that Detainee labor shall be used in accordance with the
25 detainee work plan developed by the Contractor, in this case GEO, and will adhere to the ICE
26
27
28

29 ³ The Performance-Based National Detention Standards (PBNDS) establishes consistent conditions of confinement,
30 program operations, and management expectations to ensure a safe and secure a detention environment for staff and
31 detainees in the ICE detention system.

⁴ See ICE/GEO NWDC Contract.

1 PBNS on the Voluntary Work Program.⁵ The contract also states that “[d]etainee labor
2 shall be used in accordance with the detainee work plan developed by the Contractor and will
3 adhere to the ICE PBNS on Voluntary Work Program. The detainee work plan must be
4 voluntary, and may include work or program assignments for industrial, maintenance,
5 custodial, services, or other jobs...Detainees shall not be used to perform the responsibilities
6 or duties of an employee of the Contractor.”⁶
7

8
9 13. Under a 1950 law codified at 8 U.S.C. § 1555(d), ICE is authorized to pay “allowances (at
10 such rate as may be specified from time to time in the appropriation Act involved) to aliens,
11 while held in custody under the immigration laws, for work performed.” The Agency receives
12 an appropriation from which it can make these payments. The amount of the payments was
13 most recently specified in the appropriations act for Fiscal Year 1979, which set it at a
14 maximum of \$1 per day. Pub. L. No. 95-431. Congress set this rate in 1979 and has not
15 adjusted it since. Per the terms of the contract, as well as the authority provided above, the
16 reimbursement for the Voluntary Work Program is \$1.00 per day per detainee. The PNBDS
17 also provides that detainees who participate in the VWP shall receive no less than \$1 per day
18 for their participation. ICE reimburses GEO \$1 per day per detainee for the VWP, the
19 amount to which GEO is entitled under the contract, and pursuant to the authority provided
20 above. Per PBNS, GEO then pays the detainee directly. This is the same rate that ICE
21 provides to detainees in its own SPC facilities.
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26 14. The NWDC contract states “the contractor shall comply with all applicable federal, state, and
27 local laws...”⁷ Additionally, within the VWP section of the NWDC contract, the contract
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29
30 ⁵ See *Id.*

31 ⁶ See *Id.*

32 ⁷ See *Id.*

1 states that “the detainee work program shall not conflict with any other requirements of the
2 contract and must comply with all applicable laws and regulations.”⁸

3
4 15. ICE involved stakeholders to develop its PBNDS. The workgroup relied upon national
5 correction standards from the American Correctional Association (“ACA”). State and local
6 jails similarly follow ACA standards.

7
8 16. PBNDS, including Standard 5.8 that describes the expected outcomes and practices of the
9 VWP, reflect performance standards for ICE detention.

10
11 17. ICE audits NWDC for PBNDS compliance, including compliance with VWP objectives and
12 protocols. ICE reports to Congress its efforts to implement and enforce PBNDS standards at
13 NWDC and other facilities. ICE’s enforcement of PBNDS has been a priority given ICE’s
14 commitment to the fair and humane treatment of ICE detainees.

15
16 18. ICE’s series of detention standards apply to all types of ICE processing facilities. Regardless
17 of which type of facility arrangement ICE selects, all detainees at all ICE facilities are at all
18 times in the lawful custody of ICE. Accordingly, ICE relies on its contractors to perform in
19 accord with contract requirements at contract facilities. At the NWDC, ICE occupies a
20 significant portion of the facility unrelated to GEO’s detention services to fulfill its
21 operational objectives to include its federal immigration courts. ICE has unfettered access
22 to the secure areas and the detainees. The NWDC is subject to DHS audits, third party
23 inspections, and civil rights inspections. Detainees have access to hotlines Monday thru
24 Friday during waking hours by which they can report complaints about VWP participation,
25 other tasks assigned to them, or any other facility related grievances. ICE reviews and
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31 ⁸ See *Id.*

1 resolves detainee complaints that ICE receives, according to its established procedures and
2 protocols, which includes any complaints about the VWP or detainee work at the NWDC.

3
4 19. NWDC has implemented and conforms to current PBNDS. The PBNDS requires that
5 detainees receive at least \$1.00 (USD) per day for work performed in the VWP.

6
7 20. ICE employs a full-time detention services manager at NWDC whose primary responsibility
8 is to ensure the facility is in compliance with the PBNDS requirements, including those
9 related to the VWP.

10
11 21. ICE also employs a contracting officer's representative ("COR") who works full-time at
12 NWDC. The COR's primary duty is to monitor GEO's performance to ensure that all of the
13 technical requirements under the contract are met by the delivery date or within the period of
14 performance, and at the price or within the estimated cost stipulated in the contract.

15
16 22. With GEO's monthly invoice, GEO's Assistant Warden for Administration at the NWDC
17 provides the COR an itemization of participants in the VWP, which includes detainee
18 number, name, date of participation, work performed, and amount paid. The COR reviews
19 this itemization and the corresponding totals of \$1.00 per day per participant. The COR
20 verifies that the line item on the invoice matches the proper contract line item number for the
21 VWP on the contract. If the supporting paperwork for the entire invoice meets ICE standards,
22 the COR signs the invoice to approve payment.
23

24
25 23. GEO may not otherwise expend the funds allocated for the reimbursement for the \$1 per day
26 allowance for detainee participation in the VWP. If a detainee participates in the VWP, the
27 \$1 per day allowance must be provided to the detainee. Per the PBNDS, the facility shall
28 have an established system that ensures detainees receive the pay owed them before being
29 transferred or released.
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32 DECLARATION OF TAE JOHNSON
33 ENFORCEMENT AND REMOVAL OPERATIONS
UNITES STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

1 24. The NWDC contract set the quantity of \$1.00 reimbursements at 114,975 per option year.

2 GEO shall not exceed that quantity without prior approval by the contracting officer. This
3 approval can be sought by GEO and would be memorialized through a bi-lateral contract
4 modification.
5

6 25. The \$1.00 per day allocation and reimbursement rate for VWP participation is consistent with
7 national detention standards applied similarly at state and local levels where ICE detainees
8 often are placed.
9

10
11
12 I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and
13 correct to the best of my knowledge, information and belief.
14

15 DATED: August 1, 2018

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17 
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19 TAE D. JOHNSON
20 Assistant Director
21 Custody Management Division
22 Enforcement and Removal Operations
23 U.S. Immigration and Customs Enforcement
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Exhibit F

Daniel Ragsdale
February 27, 2020

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CIVIL ACTION NO.: 1:14-cv-02887-JLK

ALEJANDRO MENOCA, et al.,

Plaintiffs,

-vs-

THE GEO GROUP, INC.,

Defendant.

_____ /

DEPOSITION OF DANIEL RAGSDALE

Thursday, February 27, 2020
9:20 a.m. - 3:14 p.m.

Shavitz Law Group, P.A.
951 Yamato Road, #285
Boca Raton, Florida 33431

Stenographically Reported By:
JOYCE L. BLUTEAU, RPR, FPR
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24

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25

1 work?

2 A. For U.S. Immigration and Customs Enforcement.

3 Q. And what was the last role that you held with

4 U.S. Immigration --

5 A. I was the deputy director.

6 Q. Let me finish my question.

7 A. Sorry.

8 Q. That's okay.

9 The deputy director for anything in particular?

10 A. For the agency.

11 Q. For ICE?

12 A. Correct.

13 Q. And how long were you in that role?

14 A. Five years.

15 Q. So from approximately 2012 to 2017?

16 A. It would have been, I believe, December of 2012

17 until May of '17.

18 Q. And did you have a prior position with ICE?

19 A. Yes.

20 Q. And what was that?

21 A. I was the executive associate director for

22 management and administration.

23 Q. And how long were you in that role?

24 A. From approximately October 2010 until

25 December 2012.

1 Q. How long were you employed with ICE all
2 together?

3 A. Twenty-one years.

4 Q. And prior to working for ICE, where did you
5 work?

6 A. The Department of Justice, the Immigration and
7 Naturalization Service.

8 Q. Were you an attorney with them?

9 A. I was.

10 Q. What's the highest level of education that
11 you've attained?

12 A. I have a juris doctorate.

13 Q. From where?

14 A. Fordham University.

15 Q. Me too.

16 What year did you graduate?

17 A. I don't want to say. 1993.

18 Q. Okay. I was class of '06.

19 MR. BARNACLE: That's why you don't want to
20 say.

21 THE WITNESS: Exactly.

22 MS. TURNER: I was still in high school.

23 BY MS. TURNER:

24 Q. Okay. Are you aware that there are some
25 housekeeping tasks that all detainees at GEO's Aurora

1 facility are required to perform?

2 A. Yes.

3 Q. And are those tasks generally referred to as
4 the Housing Unit Sanitation Policy?

5 A. I've never heard it referred to. I had to ask
6 what the HUSP is, so I know there's lots of acronyms that
7 float around. I know there is a policy to clean the
8 immediate living area in Aurora, yes.

9 Q. Okay. And what is your understanding of what
10 that policy is?

11 A. That folks will clean their immediate living
12 area, meaning making their bed, dealing with their own
13 personal property in their immediate living area. And
14 they also share sort of a common obligation to clean, you
15 know, where the microwave is, where the, you know, game
16 boards are, video games, to keep things in place in a
17 reasonable cleanliness; the bathroom, you know, the
18 areas, the communal areas is the word I'm looking for.

19 Q. And that would include the day room area?

20 A. Correct.

21 Q. And is it consistent with your understanding
22 that there's a rotation of folks who are assigned to do
23 that?

24 A. I understand it does rotate. The precise
25 nature of how they do those rotations, I don't know.

1 Q. Okay. For purposes of today's deposition, can
2 we agree that when we refer to the Housing Unit
3 Sanitation Policy or HUSP, we're referring to the
4 requirement for detainees to clean the common areas on a
5 rotating basis?

6 A. Again, I don't know precisely how they rotate.
7 I know it's shared so --

8 Q. Um-hmm.

9 A. -- to the extent "rotation" is a term of art,
10 you know, yes, we can agree. Again, I can't vouch for
11 the specifics at Aurora.

12 Q. I understand that.

13 Okay. And then are you aware of a policy at
14 the Aurora facility called the Voluntary Work Program?

15 A. I am.

16 Q. And what is your understanding of what that
17 entails?

18 A. The Voluntary Work Program is an ICE detention
19 standard requirement, so there's a, what essentially is a
20 local policy implementing ICE's detention standard at
21 Aurora.

22 Q. And what is the detention standard that is
23 being implemented?

24 A. The Voluntary Work Program.

25 Q. What does the Voluntary Work Program entail?

1 Q. I mean, I'll represent to you I reviewed this
2 and this is the only reference I see to detainee labor in
3 this contract.

4 A. So I just flipped, again, because we were
5 sitting here, to GEO_MENOCAL 00059751 and I see this is
6 the same contract line item number of 004, adult detainee
7 volunteer wages estimated, 16,500 per six months, so I
8 see another reference to it.

9 Q. And this in the option period section of the
10 contract; correct?

11 A. Yes.

12 Q. And so what does that -- what's your
13 understanding of what the option period is?

14 A. So for contracts there's a base term of the
15 contract and then there are option periods. So, again,
16 as I flip through there on pages ending in 749, it says
17 option period one, page 750, option period two, the page
18 I mentioned 751 is option period three, and so on.

19 Q. And so these are -- the parties can agree to
20 extend under these terms?

21 A. Correct. And it appears that item number
22 exists in the option years too.

23 Q. Do you understand that -- strike that.

24 Does The GEO Group contend that any portion of
25 that contract authorizes The GEO Group to send detainees

1 for segregation for refusal to clean pursuant to the
2 Housing Unit Sanitation Policy?

3 A. So the ICE disciplinary standard permits that
4 as a sanction. So to the extent the standard authorizes
5 it, it is a possibility that GEO's subordinate
6 disciplinary policy would mention or could have that same
7 sanction.

8 Q. Okay. But it's not specifically discussed in
9 this contract.

10 A. I don't believe so.

11 Q. Tab 41.

12 Mark this as Exhibit 3. Please.

13 (Exhibit 3, 9/29/06 Contract between ICE and
14 The GEO Group, was marked for identification.)

15 BY MS. TURNER:

16 Q. So the court reporter has passed you a document
17 that's been marked as Exhibit 3.

18 Do you recognize this document?

19 A. This also appears to be a contract between The
20 GEO Group and ICE. I'm trying to look at the -- see the
21 location that it is talking about here. So I'm looking
22 on -- oddly, I don't see the location where the
23 performance is happening. I could be missing it.

24 Q. If you take a look at page 59643, which is
25 page 8 of the document.

1 A. Um-hmm.

2 Q. So that makes reference to, at the top it says,
3 the facility shall be located within the GEO political
4 boundaries of Denver, Colorado.

5 A. Okay.

6 Q. Does The GEO Group operate any other facilities
7 in the Denver area other than Aurora?

8 A. For ICE, not that I'm aware of.

9 Q. So is it fair to assume that this is for the
10 operation of Aurora facility?

11 A. Yes. As cryptically as possible, but yes.

12 Q. And then if you just take a look at the first
13 page, the date that this is signed is September 29, 2006;
14 correct?

15 A. Yes.

16 Q. So if you take a look at page 59661, at the
17 very bottom, Section 10.6 says, "Manage a Detainee Work
18 Program."

19 A. Yes, I see that.

20 Q. And then it continues on the next page.

21 Does this portion of the contract relate to the
22 Voluntary Work Program?

23 A. Yes, I believe it does. It notes attachment
24 three, ICE Voluntary Work Program form.

25 Q. And the first line of the top of this page

1 says, "Detainee labor shall be used in accordance with
2 the detainee work plan developed by the contractor."

3 Do you see that?

4 A. Um-hmm.

5 Q. What is the detainee work plan?

6 A. As far as I know it would be the facility
7 specific plan that implements the Voluntary Work Program.
8 I don't have a specific knowledge of that document from
9 2006.

10 Q. And the detainee work plan is something that's
11 developed by The GEO Group?

12 A. That is what this says.

13 Q. It also says that the detainee work plan must
14 be voluntary.

15 Is that consistent with your understanding of
16 this program?

17 A. It is, and it's also what the standard
18 requires.

19 Q. That's the PBNDS standard?

20 A. Correct.

21 Q. And then in the next paragraph it states that,
22 "Detainees shall not be used to perform the
23 responsibilities or duties of an employee of the
24 contractor."

25 Is that consistent with your understanding?

1 A. Yes.

2 Q. Going back to the detainee work plan, what
3 information does that document contain?

4 A. I've actually never seen a Detainee Work
5 Program document. It's, again, a facility-specific
6 document, and also this was from 2006 which obviously is
7 before my time with GEO.

8 Q. Again, GEO Group has designated you to testify
9 about these topics, and so to the extent he's not able to
10 testify about them, we may need to speak with a different
11 witness.

12 MR. BARNACLE: I will just simply state for the
13 record that I agree with that to the extent that it's
14 within the scope of the topic that you guys have
15 identified.

16 BY MS. TURNER:

17 Q. And so GEO has the discretion to develop the
18 detainee work plan?

19 A. So assuming this is -- again, as I understand
20 it, the common language here, each detainee, there's a
21 form that they fill out, again, that's referenced in the
22 same paragraph in attachment three that the detainee has
23 an understanding of what they'll be doing, and the
24 contractor has an understanding of what the detainee will
25 be doing when.

1 Q. Okay.

2 A. Also on page 31393 it says, "Section C,
3 Description: Denver Metropolitan area."

4 Q. Great. Do you know whether -- is this the
5 contract that is currently in effect for the Aurora
6 facility?

7 A. Again, that's not my particular area, so I'm
8 not -- I couldn't really tell you for sure.

9 Q. It appears from my review of the contract that
10 there was the option to extend it past the initial period
11 right up until September of 2019, if you look on
12 page 31391.

13 A. 39391?

14 Q. Sorry, 31391.

15 A. Okay. I see option period for 9/16/19.

16 Q. Do you have any understanding as to whether or
17 not GEO and ICE exercised these options to keep the
18 contract in effect?

19 A. So I know the facilities continue to operate,
20 and I know it must be done pursuant to an agreement. I'm
21 not the best person to answer the specific question as to
22 which agreement is in effect.

23 Again, our executive vice president of contract
24 administration would know that answer.

25 Q. Okay. Let's assume for purposes of our

1 discussion that this agreement remained in effect at
2 least until September of 2014, which is when the class
3 period ended. And I'll follow-up with counsel perhaps to
4 confirm that that's the case since he's been designated
5 for that topic.

6 So if you could take a look at page 31382.

7 A. Yes.

8 Q. So at the bottom there's an item that says,
9 "Bed day rate for a minimum quantity." And then it says
10 a couple columns over, "Unit price, \$135.50."

11 Do you have an understanding of what this
12 refers to?

13 A. So, as I understand it, ICE will buy beds per
14 day from their contractors, and it's commonly known as
15 the bed day rate. And I believe that is a reference to
16 the price per bed per day for Aurora under this contract.

17 Q. Okay. And it says, "Minimum quantity."

18 Do you have an understanding of what that
19 refers to?

20 A. So there's a term that's called like a
21 guaranteed minimum, and this would be a minimum number of
22 beds that the government would buy regardless of whether
23 they use them or not.

24 Q. Got it, okay.

25 And then if you look at the next page, at the

1 very top it says, "Bed day rate in excess of minimum
2 quantity," and then the unit price for that is \$19.50.

3 A. Yes. So once they're above a certain number,
4 the price per bed goes down, and this appears to be if
5 they go above a certain number, the price is 19.50.

6 Q. Okay. So --

7 MR. BARNACLE: I just want to let the record
8 reflect that questions regarding bed day rates and
9 costs of the contract, generally speaking, are not
10 topics for which Mr. Ragsdale has been designated.

11 MS. TURNER: Okay. I'm still entitled to ask
12 him questions as a fact witness, so to the extent he
13 understands those questions, he can answer them.

14 MR. BARNACLE: Fair enough, but it's not
15 corporate designee testimony.

16 BY MS. TURNER:

17 Q. Turning to the next page, 31384, Item No. 4
18 there makes reference to a stipend for the Detainee Work
19 Program?

20 A. Yes.

21 Q. And then it says, "Reimbursement for this line
22 item will be the actual cost of \$1 per day per detainee."
23 And then it says, "Unit price, \$1."

24 So what's your understanding of what this
25 refers to?

1 facility; correct?

2 A. Yes. They are required to run a proper
3 facility, yes.

4 Q. Okay. Just going back to Exhibit 5, the
5 contract in the binder, if you can turn to the page Bates
6 stamped 31417, and so Section E.

7 A. 31417?

8 Q. Yes.

9 A. Okay.

10 Q. Section E towards the bottom.

11 A. Yes.

12 Q. Okay. That makes reference to the QASP, again;
13 correct?

14 A. Yes.

15 Q. And so is it correct that this and the
16 subsequent pages sort of describe one of the mechanisms
17 that the government will use to evaluate GEO's
18 performance under this contract?

19 A. Yes.

20 Q. And then if you turn to page 31712.

21 A. Yes.

22 Q. Actually, sorry, looks like at 31711. So is
23 this correct -- am I correct that this a sort of detailed
24 recitation of the quality assurance surveillance plan
25 that the government expects GEO to implement pursuant to

1 this contract?

2 MR. BARNACLE: Object to form.

3 THE WITNESS: It's my understanding that QASP
4 belongs to the agency, right. In other words --

5 BY MS. TURNER:

6 Q. Meaning ICE?

7 A. Right. This is ICE's -- the first line says
8 ICE's Quality Assurance Surveillance Plan. It's premised
9 on that the contractor, not the government is responsible
10 for the day-to-day operation. The QASP is ICE's plan,
11 but there's a derivative quality plan the contractor has
12 to develop to perform and then test its services.

13 Q. Got it.

14 And going back to that language you cited, it
15 says, "The QASP is based on the premise that the
16 contractor, not the government, is responsible for the
17 day-to-day operation of the facility and all the
18 management and quality control actions required to meet
19 the terms of the agreement."

20 Is that correct in your understanding?

21 A. Yes. The contractor's responsible for the
22 contractor's performance day-to-day.

23 Q. Okay. And then just looking at the next page,
24 Item 4.

25 A. 712?

1 Q. Yes.

2 A. 1712, sorry.

3 Q. That, right under Item 4, it says, "The
4 contractor shall develop, implement, and maintain the
5 quality control plan that illustrates the methods it will
6 use to review its performance and ensure it conforms to
7 the performance requirements."

8 Is that consistent with your understanding of
9 how the quality control plan is developed?

10 A. Yes. We have -- GEO has its own quality
11 control plan, yes.

12 Q. And GEO develops that quality control plan to
13 make sure that it's complying with the terms of the
14 contract?

15 A. Yes.

16 MS. TURNER: We've been going over an hour.

17 Let's take a quick break.

18 MR. BARNACLE: Sure.

19 (A recess was taken from 10:30 a.m. to
20 10:38 a.m.)

21 BY MS. TURNER:

22 Q. Back on record. Let's mark this as 7.

23 (Exhibit 7, Answers to Interrogatories, was
24 marked for identification.)

25

1 BY MS. TURNER:

2 Q. The court reporter has handed you a document
3 marked Exhibit 7. You can review it and let me know when
4 you're ready.

5 A. Okay. I skimmed it.

6 Q. Do you recognize this document?

7 A. I recognize it as a pleading but, no, I'm not
8 familiar with it.

9 Q. Okay. You didn't review it as part of your
10 deposition preparation?

11 A. No.

12 Q. Okay. So I'm going to direct your attention to
13 page 3 of Exhibit 7. And so this interrogatory asks GEO
14 to -- Interrogatory No. 24 asks GEO to "Identify all
15 communications, acts or authorization of any kind from
16 ICE that form the basis of your affirmative defense that
17 plaintiffs' claims relating to GEO's Housing Unit
18 Sanitation Policy," quote, "are barred by the government
19 contractor defense," end quote.

20 And so then below that is the response that GEO
21 has provided to this interrogatory, so I have some
22 questions about that.

23 A. Okay.

24 Q. And so in the second paragraph of GEO's
25 response, it states that, "ICE has approved the following

1 detainees are required to do to maintain their immediate
2 living areas in a neat and orderly manner.

3 Do you agree?

4 A. Yes. I would say it is a nonexclusive list of
5 things that what are generally understood as to how to
6 keep an area tidy.

7 Q. And this is the list of things that is included
8 in the policy that was approved by ICE; correct?

9 A. As it relates to this specific policy, yes. I
10 mean, on the top left page of this document ending in
11 548, there's a signature that says "ICE approval."

12 Q. Okay. Going back to the first page of
13 Exhibit 9, there's a list under A where it states, "A
14 sample of work assignments follow," and it lists eight
15 categories of potential work assignments.

16 Do you see that?

17 A. I do.

18 Q. If GEO wants to assign Voluntary Work Program
19 workers a different category of assignments, can it do
20 so?

21 A. I think it would require ICE approval. In
22 other words, this is a list of eight items that ICE
23 approved as part of the work program. If GEO wanted to
24 do something, what I would say is that does not fall in
25 these eight categories, I believe ICE should approve it.

1 Q. Uh-huh. And who would approve it for ICE?

2 A. It would be somebody at the ICE field office
3 level, either the -- in this case it's probably the COTR,
4 the Contractor's Officer's Technical Representative that
5 may sign it, but the facility is led by either some --
6 the title I think is an officer in charge. There's an
7 ICE supervisory detention and deportation officer that is
8 physically there that is responsible for the ICE work at
9 the facility.

10 Q. Okay. Is it fair to say that the use of the
11 term "sample" here suggests that GEO has some flexibility
12 in identifying potential other work assignments and
13 submitting them for approval?

14 A. I agree that "sample" does mean a nonexhaustive
15 list; however, you know, a reasonable person would say,
16 you know, I don't think this means that someone can do
17 something that's particularly specialized, something
18 that's particularly dangerous, something that sort of
19 exceeds what essentially -- you know, I think it's
20 important to note the standard is what governs. In other
21 words, this document is subordinate to ICE's
22 Performance-Based Detention Standards. Those standards,
23 you know, lay out the broad themes in which things are
24 required to be done, and that is really the concrete that
25 these things must be done. That is the constraining

1 document.

2 Q. Got it.

3 Okay. So going back to the Housing Unit
4 Sanitation Policy, I think your testimony was to the
5 extent it's described in this document, it is under C
6 where it says, "The detainees are not required to work
7 except to do personal housekeeping and to clean their
8 housing area," correct?

9 MR. BARNACLE: Object to the form.

10 THE WITNESS: Yes. And "housing area" is the
11 term that I think we had a discussion about the
12 elasticity of housing area, because it would
13 different in a cell environment kind of space versus
14 a dormitory, et cetera.

15 BY MS. TURNER:

16 Q. Okay. But we agreed that it was generally the
17 area around their bunk; correct?

18 MR. BARNACLE: Object to the form.

19 THE WITNESS: Well, again, I think it depends
20 on whether there's a common area. In other words,
21 just so we understand the same architecture, if you
22 had a celled environment that the only common area
23 was a hallway and there were no facilities for the
24 detainees to share, let's just say, and, again, I'm
25 thinking of something very judicial looking, that

1 there's nothing in the hallway except to just
2 transverse the area, then I believe they would have
3 no, you know, there would be no obligation outside
4 their immediate living area which would be their
5 cell.

6 But where you have a dormitory area where
7 you've got an immediate living area of the bed, but
8 then you also have a microwave and where the tables
9 are, you've got game tables and things of that nature
10 that are clearly shared, I understand this to be
11 there may be obligations to those shared -- I'm
12 trying to think of the word -- you know, items that
13 they would have a shared responsibility to clean. In
14 other words, you could not take your personal soda,
15 dump it on a game table, and then expect not to have
16 to wipe it up.

17 BY MS. TURNER:

18 Q. Right. So clean up after yourself in the
19 common areas; correct?

20 A. Correct, and to the extent common areas exist.

21 Q. Right. Okay. You can't leave your personal
22 property strewn around the common areas; correct?

23 A. Correct.

24 Q. Mark this, please. This is 10?

25 THE COURT REPORTER: Ten.

1 Q. That is, the appropriations bill involves what
2 the government can reimburse the contractor for; correct?

3 A. Yes.

4 Q. Okay. So my question is a little bit different
5 which is why GEO paid the detainees a dollar a day.

6 A. So, again, sort of my understanding, that when
7 ICE puts out, you know, a request for a proposal for a
8 contract, you know, there's a, you know, certain size of
9 the facility, there's standards, there's all these, you
10 know, sort of requirements.

11 The Voluntary Work Program is a requirement,
12 and the dollar a day is sort of the rate that is set.
13 For all, you know, again, the reasons we talked about,
14 even there's been ebb and flow even in the agency's
15 documents that sort of have that language, at least a
16 dollar a day, a dollar a day, you know, no more than a
17 dollar a day. I mean, there's been a variety of things
18 around that. So, I mean, that's -- the basic rule is a
19 dollar a day based on sort of that reimbursement rate
20 that ICE is authorized to pay.

21 Q. So GEO pays the workers a dollar a day because
22 GEO gets reimbursed a dollar a day; correct?

23 A. Yes.

24 Q. Okay. And -- but GEO does pay higher rates for
25 Voluntary Work Programs at some other facilities;

1 correct?

2 A. That is my understanding, yes.

3 Q. Okay. And that was case during the time period
4 covered by this lawsuit?

5 A. So I don't know the specifics about Aurora. I
6 do know that, you know, there's some sense that some -- I
7 mean, there's some places where there are more requests
8 than there are slots for people to volunteer. And there
9 are other places where, again, it could depend on length
10 of stay, it could depend on, obviously, peoples' personal
11 preferences, et cetera, that, you know, things can be
12 undersubscribed.

13 And then to incentivize it or for work that is
14 more complicated, requires more training, then GEO can
15 pay more than a dollar a day and has. I don't know, you
16 know, the contours of the dollars at Aurora, you know,
17 personally over 14 years or 10 years.

18 Q. Okay. This actually only applies to three
19 years. I don't know if that makes it easier, but the
20 Voluntary Work Program claim only involves approximately
21 2011 to 2014.

22 A. Okay.

23 Q. And it's my understanding that VWP workers were
24 paid a dollar a day for the duration of the class period.
25 Is that your understanding?

1 A. I have no reason to know the details of it.
2 Again, I would say the general idea is it's a dollar a
3 day.

4 Q. Okay. So at those facilities where GEO pays
5 more than a dollar a day, is it reimbursed by ICE for
6 more than a dollar?

7 A. No. I think ICE has a cap at a dollar a day.

8 Q. Okay. What if anything does GEO communicate
9 with ICE when it decides to pay more than a dollar a day
10 for Voluntary Work Programs at those facilities?

11 A. So the mechanics of the communication, again, I
12 probably -- it probably varies by facility. Again, you
13 know, it is for those, you know, reasons that GEO and ICE
14 are co-located at these facilities so that is what I
15 would expect, a communication that would happen with the
16 facility administrator and the officer in charge or the
17 assistant field office director.

18 I mean, I think that's germane information that
19 should be regularly shared, but I couldn't represent to
20 you whether it's done in a weekly meeting, whether it's
21 done in writing, so I think it would probably vary, you
22 know, by location.

23 Q. And if GEO wishes to pay more than a dollar a
24 day but is not seeking reimbursement from ICE for more
25 than a dollar a day, does it need to seek ICE's

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CERTIFICATE OF REPORTER

THE STATE OF FLORIDA,)
COUNTY OF PALM BEACH.)

I, Joyce L. Bluteau, Registered Professional Reporter, Florida Professional Reporter, certify that I was authorized to and did stenographically report the deposition of DANIEL RAGSDALE; pages 1 through 183; that a review of the transcript was requested; and that the transcript is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED this 3rd day of March, 2020.



Joyce L. Bluteau,
Registered Professional Reporter
Florida Professional Reporter

Exhibit I

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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLORADO

ALEJANDRO MENOCA, et al.,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:14-cv-02887
)	JLK
THE GEO ROUP, INC.,)	
)	
Defendant.)	
_____)	

Deposition of JAMES CHARLES HILL, taken on
behalf of Plaintiffs, at 3600 Wilshire Boulevard,
Suite 1800, Los Angeles, California, commencing at
9:26 a.m. on Thursday, March 12, 2020, before Katherine
Jones, CSR 10097.

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1 hours of the law library -- "we would need an
2 additional staff member to expand the hours, this is
3 the cost for us to provide that service, and this is
4 the costs of that service to provide that to ICE" --
5 to decide if they want to incorporate that into the
6 contract and adjust the price on the contract.

7 Q Okay. And just to step back for a second.
8 You said that's called an "equitable adjustment";
9 correct?

10 A The process is a request for equitable
11 adjustment.

12 Q Can you define the term "equitable
13 adjustment"?

14 MR. DE LANEY: Objection. Calls for
15 speculation. Calls for legal conclusion.

16 You can answer if you know.

17 THE WITNESS: I don't know. That's a
18 Government term that we've used in our office.

19 BY MR. KOSHKIN:

20 Q Okay. And is that different from a
21 contract modification?

22 MR. DE LANEY: Objection. Calls for
23 speculation. Calls for legal conclusion.

24 You can answer if you know.

25 THE WITNESS: An REA can be contract

1 modifications, but not all contract modifications
2 are a result of equitable adjustment.

3 BY MR. KOSHKIN:

4 Q Can you give an example of a contract
5 modification that wouldn't be a request for
6 equitable adjustment?

7 MR. DE LANEY: I'm sorry, "would not be"?

8 MR. KOSHKIN: Correct.

9 THE WITNESS: Sure. The client can put in
10 a contract modification as to financial impact to no
11 equitable adjustment that is created for that. They
12 can amend the terms to include, say, new
13 performance-based standards into the contract.

14 BY MR. KOSHKIN:

15 Q So am I understanding correctly, then,
16 that the equitable adjustments are changes to the
17 contract involving finances?

18 A Yes.

19 Q Okay. And can you tell me a little bit
20 about the -- strike that. Can you describe the
21 process for requesting an equitable adjustment?

22 A Generally, the client will come to the
23 company with a new request for service or some
24 modification to the contract that the Geo would then
25 price out the financial impact and provide a price

1 back to the client of what we would be requesting in
2 return to provide that additional service or those
3 additional personnel. The client then reviews that
4 and they would initiate a contract modification to
5 include that equitable adjustment and to add that
6 into the contract.

7 Q Okay. And you also mentioned a few
8 minutes ago that a request for equitable adjustment
9 might occur when conditions change. Can you give an
10 example of what conditions might change requiring an
11 equitable adjustment?

12 A So typically, every year, the Department
13 of Bureau and -- Department of Labor issues a new
14 wage schedule that is, then, incorporated into our
15 contract and so the conditions underlying the
16 contract had changed because now we have a new set
17 of standards for our employees' pay scale, and then
18 that would, in turn, have us complete an equitable
19 adjustment request to the client.

20 (Plaintiffs' Exhibit 2 was marked for
21 identification.)

22 BY MR. KOSHKIN:

23 Q Just introduce Exhibit 2. Documents GEO
24 MEN 00050031. Mr. Hill, do you recognize this
25 document?

1 A This is an email communication between
2 myself and business manager in Aurora with some
3 other email strings included in it.

4 Q Who is the business manager at Aurora?

5 A Barbara Krumpelmann.

6 Q Do you know who TaShek Hamlette is?

7 A She was the contract specialist.

8 Q What -- can you tell me a little bit, if
9 you know, what does that mean?

10 A She works within our contract
11 administration to -- or she did work in our contract
12 administration department at our corporate office.
13 They, generally, oversee the process of filing any
14 adjustments to contracts, contract modifications to
15 make sure that we have a complete contract in our
16 database.

17 Q Okay. And is this communication -- strike
18 that. Direct your attention to the page labeled
19 50033, where Ms. Hamlette references, "Geo's request
20 for equitable Adjustment in connection with Wage
21 Determination Number 2005-2081." Is that the an
22 example -- are you familiar with that -- what that's
23 referring to?

24 A Generally speaking, I'm familiar with what
25 they're talking about, here. Not this specific one,

1 what that's referring to?

2 A Yes, EBIT is Earnings Before Income Tax,
3 and so where it says, "Guaranteed ops Margin,"
4 that's referring to the pricing for those guaranteed
5 beds, not necessarily guarantee what our earnings
6 would be, but on the 300 beds. Assuming the revenue
7 an expenses from above, that's what our earnings
8 should be after the 2.2 million if the depreciation
9 hasn't been priced.

10 Q Flip two pages ahead. So the third page
11 of the document it's titled, Geo Group, Inc.,
12 Aurora, Colorado, 525 Detainees for ICE, EXCL
13 Medical and Transportation." Are you following
14 where I am?

15 A Yes.

16 Q Okay. Dos "EXCL Medical and
17 Transportation," mean excluding medical and
18 transportation?

19 A I read that to mean excluding.

20 Q Are you familiar with this spreadsheet?

21 A I'm familiar with this format. Not this
22 particular pricing, but I'm familiar with this
23 format.

24 Q Okay. And what is this -- a spreadsheet
25 of that format show?

1 MR. DE LANEY: Objection. Vague and
2 ambiguous.

3 You can answer.

4 THE WITNESS: This is part of the pricing
5 model where it's listing different inputs for
6 expenses and what the estimated costs for each of
7 those items are. Then it follows with Total
8 Expenses and G&A Allocation, and then at the bottom,
9 it has estimated profit based on this pricing.

10 BY MR. KOSHKIN:

11 Q What is a G&A allocation?

12 A G&A, generally, refers to general and
13 administrative overhead.

14 Q And that's the category you were talking
15 about before, prices in the regional office and the
16 corporate office?

17 A That's correct.

18 Q Okay. And are you familiar with how the
19 estimated profit is calculated in this spreadsheet.

20 A In these spreadsheets, that's going to
21 take the revenue that's expected based on these
22 assumptions, subtract out the expenses that are
23 listed, and then the difference would be what's
24 listed as profit here.

25 Q Do you have any understanding of -- strike

1 that. Do you know if Geo seeks to achieve a certain
2 percentage of profit its pricing models?

3 MR. DE LANEY: Objection. Vague and
4 ambiguous. Over broad.

5 THE WITNESS: I don't personally have any
6 knowledge of what, perhaps, the CEO or CFO was
7 looking at in particular projects because our profit
8 margin has varied, in my experience. So to my
9 knowledge, I know that there's a specific target.

10 BY MR. KOSHKIN:

11 Q Okay. Let's set this aside for now
12 (indicating).

13 (Plaintiffs' Exhibit 5 was marked for
14 identification.)

15 BY MR. KOSHKIN:

16 Q That is Exhibit 5. This is a document
17 labeled Subject, April 2015 P&L Report. And it's
18 Bates labeled GEO MEN 00044408. Are you familiar
19 with this document?

20 A I'm familiar with these documents. I
21 haven't reviewed this one in five years, but yes,
22 I'm familiar with this type of document.

23 Q Okay. I'm gonna quickly ask you who the
24 folks on cover page is. Do you know who George C.
25 Zoley is?

1 STATE OF CALIFORNIA)
)
2 COUNTY OF LOS ANGELES)

3

4 I, Katherine Jones, a Certified Shorthand
5 Reporter, do hereby certify:

6 That prior to being examined, the witness in the
7 foregoing proceedings was by me duly sworn to testify to
8 the truth, the whole truth, and nothing but the truth;

9 That said proceedings were taken before me at the
10 time and place therein set forth and were taken down by
11 me in shorthand and thereafter transcribed into
12 typewriting under my direction and supervision;

13 I further certify that I am neither counsel for,
14 nor related to, any party to said proceedings, not in
15 anywise interested in the outcome thereof.

16 In witness whereof, I have hereunto subscribed my
17 name.

18

19 Dated:

20

21

22 *Katherine Jones*
23 _____

24 Katherine Jones
25 CSR No. 10097

Exhibit J

Barbara Krumpelmann
February 12, 2020

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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLORADO

Civil Action No. 1:14-cv-02887-JLK

DEPOSITION OF: BARBARA KRUMPELMANN
February 12, 2020

ALEJANDRO MENOCA, et al.,

Plaintiffs,

v.

THE GEO GROUP,

Defendant.

PURSUANT TO NOTICE the deposition of
BARBARA KRUMPELMANN was taken on behalf of the
Plaintiffs at 1900 16th Street, Suite 1700, Denver,
Colorado 80202 on February 12, 2020, at 10:03 a.m.,
before Teresa Lynne Cardenas, Registered Professional
Reporter, Certified Realtime Reporter, and Notary
Public within Colorado.

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1 Q. Okay.

2 A. I really can't remember, because it
3 really -- it's still the same job. Call me what you
4 want.

5 Q. Okay. So your primary job duties have
6 been the same from 1988 onward?

7 A. Pretty much, except I've lost a lot of
8 these -- well, not a lot, but I don't do food service
9 anymore. There -- things changed, and I -- I don't go
10 -- I'm not out in the mix of everybody anymore.

11 Q. So looking to the changes just between
12 the Business Manager and the Assistant Warden of
13 Support Services on this document, it says the budget
14 here was 17 million instead of 15 million. Do you
15 know what the reason for that increase was?

16 A. We probably got an increase in per diem
17 rate.

18 Q. And the per diem rate is the amount of
19 money that ICE pays GEO per detainee?

20 A. Correct.

21 Q. Okay. Would a budget -- would it be
22 possible for a budget increase to come from some other
23 source, or is it just going to be from a per diem
24 rate?

25 A. Well, I mean, if GEO corporate wanted to

1 put more money on there, they could. But usually it's
2 from the client, whatever your clients are.

3 Q. Okay. So GEO corporate could say, We're
4 still getting \$17 million a year from ICE, but we want
5 you to spend \$19 million a year?

6 A. Yeah, they can. I don't think they
7 would, but . . .

8 Q. Okay. Why wouldn't they?

9 A. Because if you're a for-profit
10 organization, why would you want to spend more than
11 you make? You would be out of business.

12 Q. So their profit comes from the difference
13 between what ICE pays them and what they spend on
14 detainee services?

15 A. Well, on everything. And there's
16 overhead and other factors. I mean, it's not just cut
17 and dried, here's -- here's what you start with and
18 spend what you will. Make sure there's a couple of
19 bucks left, you know. There's a lot of stuff they pay
20 for at corporate from all of the facilities. I mean,
21 those people need to be paid, too; so that's part of
22 their part.

23 Q. But the -- and the amount -- so just to
24 clarify, the amount that GEO makes is the difference
25 between whatever GEO spends and whatever they get from

1 ICE; is that a fair characterization?

2 A. Yeah. Their profit?

3 Q. Yeah.

4 A. Yes.

5 Q. Okay. So there's a couple of additional
6 job duties here. Assist with writing and managing
7 policies and procedures and training, that looks like
8 it's new from the business manager position.

9 A. Yes. I don't do that anymore either, but
10 I do review the policies.

11 Q. Okay. And when you did assist with
12 writing and managing the policies and procedures and
13 training, what policies did you assist with?

14 A. We went through all of the policies that
15 we had. And if they needed to be updated or things
16 changed -- for example, anything that I was oversight
17 of, then if something changed, I needed to put that in
18 there so that it would be changed.

19 Q. Would that be policies related to
20 finances?

21 A. Yes.

22 Q. What about policies related to staffing?
23 Would you have oversight on those?

24 A. Some. Not -- usually corporate sends
25 down those policies, so maybe if we made them -- if

1 there was something that needed to be put in there for
2 our on-site facility -- because lots of facilities are
3 different. So if it was a general -- if it was
4 something general, then we needed to make it more
5 site-specific.

6 Q. So corporate would give you the general
7 plan, and then it would be your job to tailor it to
8 meet the needs of the facility?

9 A. Some. I mean, we all had oversight on
10 all of the policies; so we went through all of them.

11 Q. When you say "we all," who does that
12 mean?

13 A. From the facility administrator down, all
14 of the department heads to the security.

15 Q. And were the final decisions about the
16 policies made at the facility level?

17 A. You know, I can't swear to that; but I
18 would think that they were -- and then if they are
19 sent up for review, I don't know.

20 Q. But to your knowledge --

21 A. Yes.

22 Q. -- they were made at facility level? Did
23 you assist with -- with policies associated with the
24 detainee work program?

25 A. No.

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REPORTER'S CERTIFICATE

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

I, TERESA LYNNE CARDENAS, Registered Professional Reporter, Certified Realtime Reporter, and Notary Public ID 19994013288, State of Colorado, do hereby certify that previous to the commencement of the examination, the said BARBARA KRUMPELMANN was duly sworn or affirmed by me to testify to the truth in relation to the matters in controversy between the parties hereto; that the said deposition was taken in machine shorthand by me at the time and place aforesaid and was thereafter reduced to typewritten form; that the foregoing is a true transcript of the questions asked, testimony given, and proceedings had.

I further certify that I am not employed by, related to, nor counsel for any of the parties herein, nor otherwise interested in the outcome of this litigation.

IN WITNESS WHEREOF, I have affixed my signature this 17th day of February, 2020.

My commission expires May 24, 2023.

Reading and Signing was requested.

Reading and Signing was waived.

Reading and Signing was not required.

Teresa Lynne Cardenas

TERESA LYNNE CARDENAS
Registered Professional Reporter
Certified Realtime Reporter

Exhibit K

- 1 6. By bidding on the Aurora CDF contracts and providing a proposal and a quoted price, The
- 2 GEO Group, Inc. (GEO) (formerly known as Wackenhut Correction Corporation) indicated it
- 3 would meet ICE's requirement in accordance with the contract's requirements documents and
- 4 corresponding standards.
- 5 7. During the timeframe of 2004 to the present, civil immigration detention services at the Aurora
- 6 CDF have been performed under three different contract vehicles.
- 7 8. From March 27, 2003 to September 28, 2006, services were performed by GEO (doing
- 8 business as Wackenhut Correction Corporation), under Contract No. ACD-3-C-0008.
- 9 9. Contract No. ACD-3-C-0008 did not contain a specific term in the SOW regarding personal
- 10 housekeeping or a voluntary work program.
- 11 10. Contract No. ACD-3-C-0008 required "full compliance with the INS Detention Standards,"
- 12 which would have been the 2000 National Detention Standards (NDS).
- 13 11. Contract No. ACD-3-C-0008 included a requirement that the contractor create a Quality
- 14 Assurance Plan (QAP) "that addressed critical, measurable, operational performance
- 15 standards for the services required under this contract. The contractor shall incorporate in the
- 16 QAP a periodic system that reviews and updates the changes to all plans, policies and
- 17 procedures. The QAP shall include a monthly audit, or as directed by INS which shall include
- 18 the performance review of the facility operations for compliance with the QAP and
- 19 compliance with the requirements of this contract... The contractor's QAP shall be capable
- 20 of identifying deficiencies, appropriate corrective action(s) and timely implementation plan(s)
- 21 to the Contracting Officer."
- 22 12. From September 29, 2006 to February 14, 2011, services were performed by GEO under
- 23 Contract No. HSCEOP-06-D-00010.

U.S. DEPARTMENT OF JUSTICE
 IMMIGRATION AND CUSTOMS ENFORCEMENT

- 1 13. Contract No. HSCEOP-06-D-00010 contained a section entitled "Manage a Detainee Work
2 Program" at Section 10.6. This section reads: "Detainee labor shall be used in accordance
3 with the detainee work plan developed by the Contractor. The detainee work plan must be
4 voluntary, and may include work or program assignments for industrial, maintenance,
5 custodial, service or other jobs. The detainee work program shall not conflict with any other
6 requirements of the contract and must comply with all applicable laws and regulations....
7 Detainees shall not be used to perform the responsibilities or duties of an *Employee* of the
8 Contractor. Appropriate safety/protective clothing and equipment shall be provided to
9 detainee workers as appropriate. Detainees shall not be assigned work that is considered
10 hazardous or dangerous. This includes, but is not limited to, areas or assignments requiring
11 great heights, extreme temperatures, use of toxic substances and unusual physical demands."
- 12 14. Contract No. HSCEOP-06-D-00010 Modification 18, dated April 28, 2010, incorporated "the
13 new National Performance Based Detention Standards," which would have been the ICE 2008
14 Performance-Based Detention Standards.
- 15 15. The PWS for Contract No. HSCEOP-06-D-00010 contained a requirement that the
16 "Contractor is responsible for management and quality control actions necessary to meet the
17 quality standards set forth in the contract. In compliance with the Federal Acquisition
18 Regulation (FAR) Clause 52.246-4, Inspection of Services-Fixed, the Contractor must provide
19 a quality control plan (QCP) to the CO for concurrent not later than the post award
20 conference."
- 21 16. From September 15, 2011 to the present, detention services at Aurora CDF have been
22 performed by GEO under Contract No. HSCEDM-11-D-00003.

1 17. The 2008 Performance-Based National Detention Standards (PBNDS) were incorporated into
2 the award of Contract No. HSCEDM-11-D-00003.

3 18. The SOW for Contract No. HSCEDM-11-D-00003 contained a requirement that the
4 contractor maintain a "Voluntary Work Program". The section stated: "(1) Detainees may
5 have opportunities to work and earn money while confined, subject to the number of work
6 opportunities available and within the constraints of safety, security, and good order. (2)
7 Detainees will be able to volunteer for work assignments but otherwise not be required to
8 work, except to do personal housekeeping. (3) Essential operations and services will be
9 enhanced through productivity from detainees. (4) the negative impact of confinement will
10 be reduced through less idleness, improved morale and fewer disciplinary incidents. (5)
11 Detainee working conditions will comply will all applicable federal, state, and local work
12 safety laws and regulations. (6) There will be no discrimination regarding voluntary work
13 program access based on any detainee's race, religion, national origin, gender, sexual
14 orientation, or disability. (7) The applicable contents and procedures in this Standard will be
15 communicated to the detainee in a language or manner that the detainee can understand."

16 19. The 2011 Performance Based National Detention Standards (PBNDS 2011) Minimal
17 standards, several Optimal Standards, and an updated Quality Assurance Surveillance Plan
18 were incorporated into Contract No. HSCEDM-11-D-00003 through Modification 5, dated
19 May 23, 2013.

20 20. The 2011 PBNDS, 2016 revision was incorporated into HSCEDM-11-D-00003 through
21 Modification 26, dated February 4, 2017. The 2016 revision to the 2011 PBNDS did not
22 include any changes to the Voluntary Work Program (VWP) chapter.

1 21. Except for the contract references and detention standard references above, there are no other
2 contract terms in any of the three contracts for the Aurora CDF that relate to “personal
3 housekeeping” or the VWP.

4 22. The Housing Unit Sanitation Policy (HUSP) is a GEO policy, created by GEO. The GEO
5 HUSP is not created by ICE nor is it a requirement of the contract. ICE did not draft or
6 negotiate GEO’s HUSP.

7 23. Contract No. HSCEDM-11-D-00003 contained a Quality Control Plan (QCP), which is a
8 contractor produced self-inspection plan that describes the internal staffing and procedures
9 that the...Contractor will use to meet the quality, quantity, timeliness, responsiveness,
10 customer satisfaction, and other performance standards specified in the contract.” The
11 Contract also contained a Quality Assurance Surveillance Plan (QASP), which is a
12 government produced plan that “sets forth the procedures and guidelines that ICE will use to
13 inspect the technical performance of the Contractor. It presents the financial values and
14 mechanisms for applying adjustments to the Contractor’s invoices as dictated by work
15 performance measured to the desired level of accomplishment.”

16 24. As part of the QASP, the ERO Contracting Officer Representative (COR) checks for the
17 following criteria with regard to the VWP and personal housekeeping:

- 18 a. Facility has a voluntary work program
- 19 b. Maintain a written chart with work assignments/classification level
- 20 c. Facility complies with work hour and pay requirements for detainees
- 21 d. Detainees are medically screened to participate
- 22 e. Detainees receive proper training and safety requirement
- 23 f. Detainee housekeeping meets standards for neatness, cleanliness and sanitation

1 25. During the time frame of 2004 to the present, there have been no Contract Discrepancy
2 Reports (CDR) pertaining to VWP or personal housekeeping at Aurora CDF.

3 26. During the time frame of 2004 to the present, there have been no Requests for Equitable
4 Adjustment (REA) pertaining to personal housekeeping and only one REA related to VWP at
5 the Aurora CDF.

6 27. The single REA related to the VWP at the Aurora CDF was dated April 18, 2018 and was
7 received as a letter from Amber D. Martin, GEO's Executive Vice President for Contract
8 Administration to the ICE Contracting Officer. In the letter, GEO requested an equitable
9 adjustment of \$1,928,433.38 to Contract HSCEDM-11-D-00003 under the contract's Changes
10 Clause, alleging that the "contract requirements are incomplete because GEO reasonably
11 believed that it could perform these specifications and contract requirements without incurring
12 legal fees to defend such specifications and contract requirements."

13 28. By letter dated June 21, 2018, the ICE Contracting Officer denied the REA request in its
14 entirety. The basis for this determination was: (1) "There have been no constructive changes
15 to the terms of the Contract." (2) "The performance specification and standards are not
16 'incomplete' and are not defective...the service provider has been on notice about these terms
17 since contract inception [in 2011], when the performance-based contract was negotiated." (3)
18 "GEO's legal fees and expenses are not cognizable costs under the contract terms or under
19 [Federal Acquisition Regulation] FAR 31.205-47...GEO's defense of these private lawsuits
20 is a defense of its contract performance."
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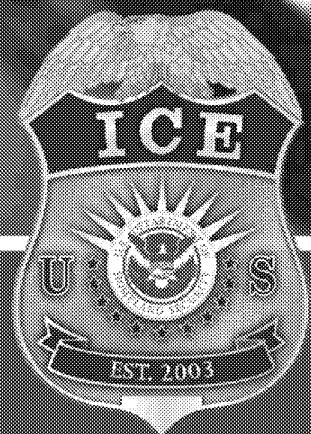
I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

DATED: October 11, 2019



Shannon Ely
Contracting Officer
Office of Acquisition Management
U.S. Immigration and Customs Enforcement
Department of Homeland Security

Exhibit L



Performance-Based National Detention Standards 2011



U.S. Immigration
and Customs
Enforcement

Preface

In keeping with our commitment to transform the immigration detention system, U.S. Immigration and Customs Enforcement (ICE) has revised its detention standards. These new standards, known as the Performance-Based National Detention Standards 2011 (PBNDS 2011), are an important step in detention reform.

ICE is charged with removing aliens who lack lawful status in the United States and focuses its resources on removing criminals, recent border entrants, immigration fugitives, and recidivists. Detention is an important and necessary part of immigration enforcement. Because ICE exercises significant authority when it detains people, ICE must do so in the most humane manner possible with a focus on providing sound conditions and care. ICE detains people for no purpose other than to secure their presence both for immigration proceedings and their removal, with a special focus on those who represent a risk to public safety, or for whom detention is mandatory by law.

The PBNDS 2011 reflect ICE's ongoing effort to tailor the conditions of immigration detention to its unique purpose. The PBNDS 2011 are crafted to improve medical and mental health services, increase access to legal services and religious opportunities, improve communication with detainees

with no or limited English proficiency, improve the process for reporting and responding to complaints, and increase recreation and visitation.

The PBNDS 2011 are also drafted to include a range of compliance, from minimal to optimal. As such, these standards can be implemented widely, while also forecasting our new direction and laying the groundwork for future changes.

In closing, I would like to thank the ICE employees and stakeholders who provided significant input and dedicated many hours to revising these standards. I appreciate the collaboration and support in this important mission - reforming the immigration detention system to ensure it comports with our national expectations. The PBNDS 2011 are an important step in a multiyear process and I look forward to continued collaboration within ICE, with state and local governments, nongovernmental organizations, Congress, and all of our stakeholders as we move forward in reforming our detention system.



John Morton
Director

1.2 Environmental Health and Safety

I. Purpose and Scope

This detention standard protects detainees, staff, volunteers and contractors from injury and illness by maintaining high facility standards of cleanliness and sanitation, safe work practices and control of hazardous substances and equipment.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Facility cleanliness and sanitation shall be maintained at the highest level.
2. Compliance with all applicable federal, state and local safety and sanitation laws shall be ensured by documented internal and external inspections,

and by corrective action when indicated.

3. Compliance with all applicable fire safety codes and fire safety performance requirements for facility furnishings shall be ensured.
4. Flammable, poisonous, toxic and caustic materials shall be controlled and used in a safe manner.
5. Compliance with fire prevention regulations, inspection requirements and other practices, including periodic fire drills, shall ensure the safety of detainees, staff and visitors.
6. Staff shall be knowledgeable about procedures an.3
7. d responsibilities during emergency situations, including those that require evacuation, in accordance with a written plan and with training at least annually.
8. The facility shall have a written plan for immediate release of detainees from locked areas, and provisions for a back-up system.
9. A sufficient number of properly positioned emergency exits, clear from obstruction, shall be distinctly and permanently marked.
10. Preventive maintenance and regular inspections shall be performed to ensure timely emergency repairs or replacement and to prevent dangerous and life-threatening situations.
11. Potential disease transfer shall be minimized through proper sanitization of barbering equipment and supplies.
12. Pests and vermin shall be controlled and eliminated.
13. Safe, potable water shall be available throughout the facility.
14. Emergency lighting and life-sustaining

equipment shall be maintained and periodically tested.

15. Disposal of garbage and hazardous waste shall be in compliance with applicable government regulations.

16. The applicable content and procedures in this standard shall be communicated to the detainee in a language or manner the detainee can understand.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard replaces “Environmental Health and Safety” dated 12/2/2008.

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-1A-01, 1A-02, 1A-03, 1A-07, 1A-14, 1A-15, 1A-16, 1A-17, 1A-18, 1A-19, 1A-20, 1C-01, 1C-02, 1C-03, 1C-04, 1C-05, 1C-07, 1C-08, 1C-09, 1C-10, 1C-11, 1C-12, 1C-13, 1C-14, 1C-15, 4B-07, 4C-18.

Occupational Safety and Health Administration (OSHA) Regulations.

NFPA Standards.

U.S. Public Health Service Report on Carcinogens.

V. Expected Practices

A. Environmental Health and Safety

1. General Environmental Health

Environmental health conditions shall be maintained at a level that meets recognized standards of hygiene, including those from the:

- a. American Correctional Association;
- b. Occupational Safety and Health Administration;
- c. Environmental Protection Agency;
- d. Food and Drug Administration;
- e. National Fire Protection Association’s Life Safety Code; and
- f. National Center for Disease Control and Prevention.

The health services department or equivalent shall assist in the identification and correction of conditions that could adversely impact the health of detainees, employees and visitors. The facility administrator designee for environmental health is responsible for developing and implementing policies, procedures and guidelines for the environmental health program that are intended to identify and eliminate or control as necessary, sources of injuries and modes of transmission of agents or vectors of communicable diseases.

The facility administrator designee shall:

- a. conduct special safety investigations and comprehensive surveys of environmental health conditions; and
- b. provide advisory, consultative, inspection and training services regarding environmental health conditions.

The health services administrator or equivalent is responsible for:

- a. implementing a program that assists in maintaining a high level of environmental

sanitation; and

- b. providing recommendations to the facility administrator concerning environmental health conditions, in consultation with the environmental health designee.

2. Staff and Detainee Safety

The facility administrator shall ensure that adequate provisions are made for staff and detainee safety, in accordance with these detention standards and applicable law. Standard “7.3 Staff Training” further addresses employee training-related issues. Standard “5.8 Voluntary Work Program” addresses detainee training issues for workers. Detainees shall receive safety instruction as necessary for living area-related assignments, such as working with cleaning products to clean general use areas.

Detainee living area safety shall be emphasized to staff and detainees to include providing, as noted in the standards, a housekeeping plan. For example, when there are safety concerns with a detainee sleeping in a top bunk that is not along a wall and that has no bed rail, accommodations shall be made to ensure safety. (Because of the potential safety risk they pose, bed rails are not common in detention settings except for medical housing units.) In locations where ladders are unavailable, alternate accommodations, such as the use of bottom bunks or the addition of a ladder or step, shall be made for detainees on a case-by-case basis. Detainees who have medical or physical problems that may be aggravated by sleeping on a top bunk shall be referred to the medical unit for consideration of a lower bunk permit.

3. General Housekeeping

The facility administrator shall ensure that staff and detainees maintain a high standard of facility sanitation and general cleanliness. When possible, the use of non-toxic cleaning supplies is recommended.

- a. All horizontal surfaces shall be dampdusted daily with an approved germicidal solution used according to the manufacturer’s directions.
- b. Windows, window frames and windowsills shall be cleaned on a weekly schedule.
- c. Furniture and fixtures shall be cleaned daily.
- d. Floors shall be mopped daily and when soiled, using the double-bucket mopping technique and with a hospital disinfectant-detergent solution mixed according to the manufacturer’s directions.
- e. A clean mop head shall be used each time the floors are mopped.
- f. Waste containers shall weigh less than 50 lbs., be non-porous and lined with plastic bags; the liner shall be changed daily.
- g. Waste containers shall be washed weekly at a minimum, or as needed when they become soiled.
- h. Cubicle curtains shall be laundered monthly or during terminal cleaning following treatment of an infectious patient.

4. Pests and Vermin

The facility administrator shall contract with licensed pest-control professionals to perform monthly inspections to identify and eradicate rodents, insects and other vermin. The contract shall include a preventive spraying program for indigenous insects and a provision for callback services as necessary. Doors to the outside should be tight fitting and door sweeps should be installed to prevent the entry of vermin from outside.

5. Certification of Facility Water Supply

At least annually, a state laboratory shall test samples of drinking and wastewater to ensure compliance with applicable standards. A copy of the

testing and safety certification shall be maintained on site.

6. Emergency Electrical Power Generator

At least every two weeks, emergency power generators shall be tested for one hour, and the oil, water, hoses and belts of these generators shall be inspected for mechanical readiness to perform in an emergency situation.

Power generators are to be inspected weekly and load-tested quarterly at a minimum, or in accordance with manufacturer’s recommendations and instruction manual. Technicians shall check starting battery voltage, generator voltage and amperage output at a minimum, and shall perform all other necessary checks as well.

Other emergency equipment and systems shall be tested quarterly, and all necessary follow-up repairs or replacement shall be performed as soon as feasible.

7. Garbage and Refuse

- a. Garbage and refuse includes all trash, rubbish and other putrescible and non-putrescible solid waste, except the solid and liquid waste discharged into the sanitary sewer system of the facility.
- b. Garbage and refuse shall be collected and removed from common areas at least daily to maintain sanitary conditions and to avoid creating health hazards.
- c. Facilities shall comply with all federal, state and local environmental regulations and requirements governing methods for handling and disposing of refuse.

B. Hazardous Materials

Every facility shall establish a system for storing, issuing, using and maintaining inventories of and accountability for hazardous materials. The facility

program shall be supervised by an individual trained in accordance with OSHA standards. The effectiveness of any such system depends not only on written policies, procedures and precautions, but also on adequate supervision and responsible behavior of staff and detainees, including following instructions precisely, taking prescribed precautions and using safety equipment properly.

A list of common flammable, toxic and caustic substances is included at the end of this detention standard as “Appendix 1.2.A: Common Flammable, Toxic and Caustic Substances.”

1. Personal Responsibility

Every individual who uses a hazardous substance must:

- a. be trained in accordance with OSHA standards;
- b. be knowledgeable about and follow all prescribed precautions;
- c. wear personal protective equipment when indicated; and
- d. promptly report hazards or spills to the designated authority.

2. Protective Equipment

- a. Protective eye, face, and other appropriate equipment (such as footwear, gloves, gowns, and/or aprons) is required where there is a reasonable probability of injury preventable by such equipment. Areas of the facility where such injuries can occur shall be conspicuously marked with eye-hazard warning signs.
- b. Eyewash stations that meet OSHA standards shall be installed in designated areas throughout the facility, and all employees and detainees in those areas shall be instructed in their use.

3. Inventories

Every area shall maintain a current inventory of the

hazardous substances (e.g., flammable, toxic or caustic) used and stored there. Inventory records shall be maintained separately for each substance. Entries for each shall be logged on a separate card (or equivalent), and filed alphabetically by substance. The entries shall contain relevant data, including purchase dates and quantities, use dates and quantities and quantities on hand.

4. Material Safety Data Sheet Files

- a. Every department or other area of the facility using hazardous substances shall maintain a file of Material Safety Data Sheets (MSDS) that includes a list of the locations where hazardous substances are stored, along with a diagram and legend of these locations. Designated staff from each department or area shall provide a copy of each file to the maintenance supervisor.
- b. MSDS are produced by manufacturers and provide vital information on individual hazardous substances, including instructions on safe handling, storage and disposal; prohibited interactions; etc.
- c. Staff and detainees shall have ready and continuous access to the MSDS for the substances with which they are working. Staff and detainees who do not read English shall not be authorized to work with these materials.
- d. Because changes in MSDS occur often and without notice, staff must:
 - 1) review the latest issuance from the manufacturers of the relevant substances;
 - 2) update the MSDS files as necessary; and
 - 3) forward any changes to the maintenance supervisor, so that the copy is kept current.

5. Master Index

The maintenance supervisor or facility administrator designee shall compile:

- a. a master index of all hazardous substances in the facility and their locations;
- b. a master file of MSDS; and
- c. a comprehensive, up-to-date list of emergency phone numbers (e.g., fire department, poison control center, etc.).

The maintenance supervisor shall maintain this information in the safety office (or equivalent) and ensure that a copy is sent to the local fire department.

6. General Guidelines Regarding Hazardous Substances

- a. Issuance
Flammable, caustic and toxic substances (hazardous substances) shall be issued (i.e., drawn from supply points to canisters or dispensed) only under the supervision of the designated officer.
- b. Amounts
Hazardous substances shall be issued in single-day increments (the amount needed for one day’s work.)
- c. Supervision
Qualified staff shall closely monitor detainees working with hazardous substances.
- d. Accountability
Inventory records for a hazardous substance must be kept current before, during and after each use.

7. Flammable and Combustible Liquids

- a. As required by the Federal Hazardous Substances Labeling Act, any liquid or aerosol labeled “flammable” or “combustible” must be stored and used as prescribed on the label.
- b. Lighting fixtures and electrical equipment installed in flammable liquid storage rooms must

meet National Electrical Code requirements in hazardous locations.

- c. Every hazardous material storage room shall:
 - 1) be of fire-resistant construction and properly secured;
 - 2) have self-closing fire doors at each opening;
 - 3) be constructed with either a four-inch sill or a four-inch depressed floor; and
 - 4) have a ventilation system (mechanical or gravity flow), which provides at least six air changes per hour, within 12 inches of the floor.
- d. Every storage cabinet shall:
 - 1) be constructed according to the applicable code and securely locked at all times;
 - 2) be clear of open passageways, stairways and other emergency exit areas;
 - 3) be conspicuously labeled: “Flammable—Keep Fire Away”; and
 - 4) contain not more than 60 gallons of Class I or Class II liquids, or more than 120 gallons of Class III liquids.
- e. Storage rooms and cabinets may be entered only under secure conditions and under the supervision of authorized staff.
- f. Any portable container that is not the original shipping container must be designated as an approved safety canister, and must be listed or labeled by a nationally recognized testing laboratory. Each container shall bear a legible label that identifies its contents.
- g. Excess liquids shall remain in original containers, tightly closed, in the storage room or cabinet.
- h. The MSDS shall govern use of particular

flammable or combustible liquids.

- i. Only authorized staff may dispense flammable and combustible liquids, using acceptable methods for drawing from or transferring these liquids.
- j. Drawing from or transferring any of these liquids into containers indoors is prohibited except:
 - 1) through a closed piping system;
 - 2) from a safety can;
 - 3) by a device drawing through the top; or
 - 4) by gravity, through an approved self-closing system.

An approved grounding and bonding system must be used when liquids are dispensed from drums.

- k. Without exception, cleaning liquids must have a flash point at or above 100° F (e.g., Stoddard solvents, kerosene). Cleaning operations must be in an approved parts-cleaner or dip tank, fitted with a fusible link lid with a 160 degree F melting-temperature link.
- l. Staff shall follow MSDS directions:
 - 1) when disposing of excess flammable or combustible liquids; or
 - 2) after a chemical spill.

8. Toxic and Caustic Substances

- a. All toxic and caustic materials must be stored in secure areas, in their original containers, with the manufacturer’s label intact on each container.
- b. Only authorized staff shall draw/dispense these substances, in accordance with the applicable MSDS.
- c. Staff shall either return unused amounts to the original container(s) or, under certain circumstances, to another suitable, clearly

labeled container within the storage area.

- d. MSDS directions shall determine the disposal and spill procedures for toxic and caustic materials used in the facility.

9. Poisonous Substances

Poisonous substances or chemicals (e.g., methyl alcohol, sulfuric acid, muriatic acid, caustic soda or tannic acid, etc.) pose a very high (Class I) caustic hazard due to their toxicity.

Methyl alcohol, variously referred to as wood alcohol and methanol, is commonly found in industrial applications (e.g., shellac thinner, paint solvent, duplicating fluid, solvents for leather cements and dyes, flushing fluid for hydraulic brake systems).

- a. If ingested, methyl alcohol can cause permanent blindness or death.
- b. Staff must directly supervise the use of any product containing methyl alcohol. Products that contain methyl alcohol in highly diluted amounts (e.g., shoe dye) may be issued to detainees, but only in the smallest workable quantities.
- c. Immediate medical attention is vital any time methyl alcohol poisoning is suspected.

10. Other Toxic Substances

- a. Permanent antifreeze containing ethylene glycol shall be stored in a locked area and dispensed only by authorized staff.
- b. Typewriter cleaner containing carbon tetrachloride or trichloroethane shall be dispensed in small quantities and used under direct staff supervision.
- c. Cleaning fluids containing carbon tetrachloride or trichloroethane shall be strictly controlled.
- d. Glues of every type may contain hazardous

chemicals. Toxic glues must be stored in a locked location, for use only by authorized staff. When use of a nontoxic product is not possible, staff must closely supervise all stages of handling.

- e. The use of dyes and cements for leather requires close supervision. Nonflammable types shall be used whenever possible.
- f. Ethyl alcohol, isopropyl alcohol and other antiseptic products shall be stored and used only in the medical department and only under close supervision. To the extent practical, such chemicals shall be diluted and issued in small quantities to prevent any injuries or lethal accumulation.
- g. Pesticides not currently approved by the Environmental Protection Agency, such as DDT and 1080 (sodium fluoroacetate) are prohibited. The maintenance supervisor is responsible for purchasing, storing (in a locked area) and dispensing all pesticides used in the facility.
- h. The maintenance supervisor or other staff members responsible for herbicides must hold a current state license as a certified private applicator. Persons applying herbicides must wear proper clothing and protective gear.
- i. Lyes may be used only in dye solutions and only under the direct supervision of staff.

11. Labeling of Chemicals, Solvents and Other Hazardous Materials

The facility administrator shall individually assign the following responsibilities associated with the labeling procedure:

- a. identifying the nature of potentially hazardous materials adopted for use;
- b. overseeing use of properly labeled containers for hazardous materials, including any and all

miscellaneous containers into which employees might transfer materials;

- c. instructing staff in the meaning of the classification code and the MSDS, including the safe handling procedures for each material;
- d. working with staff ensure that containers are properly labeled; and
- e. correctly labeling all smaller containers to correspond to the manufacturer-affixed labels on larger shipping containers.

12. Controlled Hazardous Materials

Certain substances require special treatment and careful planning and precautions before use. These controlled materials are classified according to the type of hazard and the nature of the restrictions imposed for their safe use, as specified in OSHA regulations.

- a. **Class I: Industrial Solvents**
Industrial solvents and chemicals used as paint thinners, degreasers and cleaning agents may have toxic properties and low flash points, making them dangerous fire hazards.
- b. **Class II: Restricted Materials**
Beryllium and its alloys and compounds, and silver solder containing cadmium, pose a danger to workers, for whom special precautions must be taken.
- c. **Class III: Recognized Carcinogens**
OSHA-listed carcinogens are governed by the OSHA regulations provided in 29 CFR 1910.1000.

Although asbestos appears on the OSHA list, it is exempt from the regulation when:
 - 1) no asbestos fibers shall be released into the air during handling and use; and
 - 2) the asbestos consists of firmly bound fibers

contained in a product such as a transit pipe, wallboard, or tile (except when being sawed or otherwise handled in a way that releases fibers into the air).

- d. **Class IV: Suspected Carcinogenic, Teratogenic and Mutagenic Materials**
Chemical agents, substances, mixtures and exposures are listed in the biennial *Report on Carcinogens* issued by the U.S. Public Health Service, in accordance with the Public Health Service Act. The maintenance supervisor shall ensure that the facility has copies of the report and that there is compliance with the provisions of the latest edition.

C. Fire Prevention and Control

1. Fire Safety Codes

Every facility shall comply with standards and regulations issued by:

- a. OSHA;
- b. the American Correctional Association
“mandatory” Expected Practices [Mandatory ACA Expected Practice 4-ALDF-1C-07 requires that the facility conform to applicable federal, state and/or local fire safety codes, and that of the authority having jurisdiction document compliance. A fire alarm and automatic detection system are required (or else there must be a plan for addressing these or other deficiencies within a reasonable time period), as approved by the authority having jurisdiction. If the authority approves any variance, exceptions or equivalencies, they must not constitute a serious life-safety threat to the occupants of the facility.];
- c. local and national fire safety codes; and
- d. applicable standards of the American Society for Testing and Materials, American National

Standards Institute and Underwriters' Laboratories or Factory Mutual Engineering Corporation.

New construction, alterations and renovations, shall comply with:

- a. the latest revision or update of the International Council Codes;
- b. the Uniform Building Code; or
- c. the Standard Building Code, in accordance with 40 U.S.C § 619 and local law.

If the local government does not mandate adherence to a particular code, construction must conform to the International Council Codes.

In addition, construction shall comply with the latest edition of the National Fire Protection Association (NFPA)'s 101, Life Safety Code and National Fire Codes (NFCs). If the fire protection and life safety requirements of a local building code differ from NFPA 101 or the NFCs, the requirements of NFPA 101 and the NFCs shall take precedence and be recognized as equivalent to those of the local building code.

2. Inspections

- a. A qualified departmental staff member shall conduct weekly fire and safety inspections.
- b. Facility maintenance (safety) staff shall conduct monthly inspections.
- c. Written reports of the inspections shall be forwarded to the facility administrator for review and, if necessary, corrective action determinations. The maintenance supervisor shall maintain inspection reports and records of corrective action in the safety office. Fire safety deficiencies shall be promptly addressed.

3. Fire Prevention, Control and Evacuation Plan

Every facility shall develop a written fire

prevention, control and evacuation plan that includes the following:

- a. control of ignition sources;
- b. control of combustible and flammable fuel load sources;
- c. provisions for occupant protection from fire and smoke;
- d. inspection, testing and maintenance of fire protection equipment, in accordance with NFPA codes, etc.;
- e. monthly fire inspections;
- f. installation of fire protection equipment throughout the facility, in accordance with NFPA codes;
- g. accessible, current floor plans (including all buildings and rooms); prominently posted evacuation maps/plans; and exit signs and directional arrows for traffic flow, with a copy of each revision filed with the local fire department; and
- h. exit diagrams that shall be conspicuously posted throughout the facility.

4. Fire Drills

Fire drills shall be conducted and documented at least quarterly in all facility locations including administrative areas.

- a. Fire drills in housing units, medical clinics and other areas occupied or staffed during non-working hours shall be timed so that employees on each shift participate in an annual drill.
- b. Detainees shall be evacuated during fire drills, except:
 - 1) in areas where security would be jeopardized;
 - 2) in medical areas where patient health could be jeopardized; or

- 3) in individual cases when evacuation of patients or detainees is logistically not feasible.

Staff shall simulate drills in areas where detainees are not evacuated.

- c. Emergency-key drills shall be included in each fire drill, and timed. Emergency keys shall be drawn and used by the appropriate staff to unlock one set of emergency exit doors not in daily use. NFPA recommends a limit of four and one-half minutes for drawing keys and unlocking emergency doors. However, when conducting fire drills, emphasis shall be placed on safe and orderly evacuation rather than speed.

5. Exit Diagram

In addition to a general area diagram, the following information must be provided on signs:

- a. instructions in English, Spanish and the next most prevalent language at the facility;
- b. "You are here" markers on exit maps; and
- c. emergency equipment locations.

"Areas of Safe Refuge" shall be identified and explained on diagrams. Diagram posting shall be in accordance with applicable fire safety regulations of the jurisdiction.

D. Medical Operation

1. Needles and Other Sharp Objects

A mandatory, uniform procedure shall be established for the safe handling and disposal of used needles and other potentially sharp objects (sharps) to prevent both mechanical injury and the percutaneous transmission of infectious disease organisms, such as the hepatitis B virus (HBV) and human immunodeficiency virus (HIV). Sharps are defined as all disposable or discarded items derived from detainee care that could potentially transmit

disease via direct subdermal inoculation. Items included are: hypodermic needles and syringes, scalpel blades, glass vials or ampules containing materials deemed to be infectious, burrs, glass cartridges and lancets.

Accidental injuries from sharp objects are common in health care programs; most are from needle sticks caused by staff attempting to recap hypodermic needles. A uniform procedure for used needles and other disposable sharps is necessary to reduce the number of such injuries by preventing the secondary handling of needles and other dangerous sharp objects used in the delivery of medical care.

2. Standard Precautions (Includes "Universal Precautions")

Staff shall frequently wash their hands and take additional routine precautions to prevent contact with blood or other body fluids.

- a. Gloves shall be worn: prior to touching blood and body fluids, mucous membranes, or non intact skin of all patients; prior to handling items or surfaces soiled with blood or body fluids; and prior to performing venipuncture and other vascular access procedures.
- b. Gloves shall be changed after contact with each detainee.
- c. Masks and protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other body fluids.
- d. Gowns and/or aprons shall be worn during procedures that are likely to generate splashes of blood or other body fluids.
- e. Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands shall be washed immediately after gloves are removed.
- f. All health-care workers shall take precautions to

prevent injuries caused by needles, scalpels and other sharp instruments or devices during procedures, especially at the following times: when cleaning used instruments, during disposal of used needles and when handling sharp instruments after procedures. Instruments and drugs shall be maintained in a secure and sanitary condition.

- g. To prevent needle-stick injuries, needles shall not be recapped, purposely bent or broken, removed from disposable syringes, or otherwise manipulated by hand. After use, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture-resistant containers for disposal.
- h. Large-bore reusable needles shall be placed in a puncture-resistant container for transport to the reprocessing area.
- i. To minimize the need for emergency mouth-to-mouth resuscitation, mouthpieces, resuscitation bags or other ventilation devices shall be available for use in areas in which the need for resuscitation is foreseeable.
- j. Health-care workers who have exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient care equipment until the condition resolves.
- k. Pregnant health-care workers shall strictly adhere to precautions to minimize the risk to the fetus of perinatal transmission of HIV.
- l. Isolation precautions shall be used as necessary if associated conditions, such as infectious diarrhea or tuberculosis, are diagnosed or suspected. Implementation of standard blood and body fluid precautions for all detainees eliminates the need for the use of isolation category of “blood and body fluid precautions” previously recommended by the Centers for

Disease Control for individuals known or suspected to be infected with blood-borne pathogens.

Staff shall encourage detainees to wash their hands frequently and to take additional routine precautions to prevent contact with blood or other body fluids.

3. Accidental Needle Sticks

Any employee or detainee who receives a needle stick or who is cut while handling potentially contaminated sharps shall be counseled regarding baseline testing for HBV and HIV, and referred to his/her usual source of health care. If the injury also involves a person who is a known source of possible infection, that person shall also be tested for HBV and HIV. The incident shall be reported as an occupational injury and documented in accordance with applicable regulations for commissioned officers and civil service employees, respectively.

The leading health service provider’s exposure-control plan shall be followed in the event of a needle stick.

4. Inventory

Items that pose a security risk, such as sharp instruments, syringes, needles and scissors, shall be inventoried and checked weekly by an individual designated by the medical facility’s Health Service Administrator (HSA) or equivalent.

5. Handling

Without removing the needles or replacing the needle covers, staff shall place used (disposable) syringes in a plastic disposal box or container.

a. Disposal Containers

- 1) Use only commercially available, biohazardous-waste sharps containers approved by the National Institute of Safety and Health (e.g., a “Winfield Sharps

Container”).

- 2) Do not use milk cartons or plastic milk jugs or other plastic containers of similar thickness.
- 3) Use containers with a two-gallon capacity (approximate).
- 4) Under no circumstances shall an item be removed from the Winfield Sharps Container (Sharps Container).

b. Location

Sharps Containers shall be located on top of counters or, if on the wall, at least five feet above ground. Sharps Containers shall never sit on the floor.

c. Disposal

When the disposal box is one-half to two-thirds full, the lid shall be closed and locked, and tape shall be placed over the top of the lid to indicate that it is ready for disposal. The Sharps Container shall be labeled with the words “infectious waste” or with the universal biohazard symbol, and placed in the proper area for removal and disposal.

Sharps are considered infectious waste, and final disposal of the Sharps Container and contents shall be through a commercial contractor that handles disposal of infectious waste in accordance with all local and federal regulations.

The HSA shall make arrangements for disposal with an approved contractor and is responsible for validating that the contractor’s disposal methods are in accordance with all infectious and hazardous waste disposal laws and regulations. Arrangements shall be made with local hospitals, when possible, for disposal with the hospitals’ own infectious waste.

6. Environmental Health in Medical Operations

While many of the following considerations, precautions and specific procedures apply to

situations that typically arise in medical operations, in many cases they have general application to all facility operations.

a. General Housekeeping

Environmental cleanliness shall reduce, control and prevent nosocomial infections due to contaminated environmental surfaces. The HSA or designee is responsible for ensuring the cleanliness of the medical facility.

Using an acceptable health agency standard as a model, the HSA shall establish:

- 1) the cleaning equipment, cleansers, disinfectants and detergents to be used;
- 2) the methods of cleaning; and
- 3) the frequency of cleaning and inspections.

The HSA or designee shall make a daily visual inspection of the medical facility, noting the condition of floors, walls, windows, horizontal surfaces and equipment.

All surfaces touched by detainees or staff shall be cleaned using fresh solutions of appropriate disinfectant products, applied with clean cloths, mops or wipes. Cleaned surfaces need not be monitored microbiologically since the results of such tests have been shown not to correlate with infection risk. Floors, walls, beds, tables and other surfaces that usually come in contact with intact skin require low-level disinfection

Horizontal surfaces in detainee care areas are cleaned on a regular basis, when soiling or spills occur. Additionally, short-stay units are cleaned when a detainee is discharged. Cleaning of walls, blinds or curtains is required only when visibly soiled.

The Chief Nurse (or equivalent) is responsible for training all staff and detainees in using proper housekeeping procedures and proper handling of

hazardous materials and chemicals.

1) General Cleaning

- a) All horizontal surfaces shall be damp dusted daily with an approved germicidal solution.
- b) Windows, window frames and windowsills shall be cleaned on a regular schedule, but do not require daily cleaning.
- c) Furniture and fixtures shall be cleaned daily.
- d) Floors shall be mopped daily and when soiled using the double bucket mopping technique. The cleaning solution shall be a hospital disinfectant-detergent solution mixed according to the manufacturer's directions. A clean mop head shall be used each time the floors are mopped.
- e) Waste containers shall be lined with plastic bags and the liner shall be changed daily. The container itself shall be washed at least weekly, or as needed when it becomes soiled.
- f) Cubicle curtains shall be laundered monthly or during terminal cleaning following treatment of an infectious patient.

2) Isolation Cleaning

- a) An approved germicidal detergent solution shall be freshly prepared in accordance with the manufacturer's specifications for each cleaning.
- b) After cleaning the isolation room, mops and cleaning cloths shall be laundered before being reused.
- c) Dirty water and used disinfecting solutions shall be discarded and the buckets and

basins disinfected before being refilled. Items used in cleaning a contaminated isolation room shall never be taken into another area.

- d) Linens shall be carefully removed from the bed and double-bagged for transport.
- e) All waste materials shall be double-bagged and disposed of as contaminated waste.

3) Terminal Cleaning

- a) Every item in the room must be cleaned with an approved hospital germicidal solution.
- b) When applicable, linen shall be stripped from the bed, with care taken not to shake the linen. Linen shall be folded away from the person and folded inward into a bundle, then removed with minimal agitation.
- c) When applicable, all reusable receptacles (e.g., drainage bottles, urinals, bedpans, water pitchers) shall be emptied and rinsed with germicidal solutions.
- d) All equipment that is not to be discarded (e.g., IV poles, respirators, suction machines) shall be washed with an approved germicidal solution following manufacturer's guidelines for cleaning the specific piece of equipment.
- e) When applicable, mattresses and pillows covered with durable plastic covers shall be washed thoroughly with the approved germicidal solution.
- f) When applicable, beds shall be washed thoroughly, using a small brush soaked in germicidal solution to gain access to small holes and crevices, to areas between the springs and to the casters.
- g) All furniture shall be washed with a

germicidal detergent solution. Use a small brush if necessary. Outside and underside as well as legs and casters must also be washed.

- h) Wastebaskets shall be thoroughly washed with a germicidal solution after trash and liner have been removed.
- i) Telephones shall be thoroughly cleaned with a clean cloth soaked in the germicidal solution. The earpiece and mouthpiece shall be unscrewed, scrubbed, dried and replaced.
- j) Walls and ceilings need not be washed entirely, but areas that are soiled shall be washed with germicidal solution.

4) Choice of Disinfecting Materials
 Hospital-grade disinfectant detergent formulations registered by the Environmental Protection Agency (EPA) may be used for environmental surface cleaning, but the physical removal of microorganisms by scrubbing is as imperative as any antimicrobial effect of the cleaning agent used.

Cost, safety and acceptance by staff shall be the criteria for selecting any such registered agent. The manufacturer’s instructions for use shall be followed exactly.

- b. Blood and Body Fluid Clean-up
 Spills of blood and body fluids shall be cleaned up and the surface decontaminated in such a manner as to minimize the possibility of workers becoming exposed to infectious organisms, including HIV and HBV. A suitable cleanup kit shall be maintained for use in cases of spills of blood and body fluids. Cleanup kits may be obtained from commercial sources, or may be compiled by Health Services Department (HSD)

staff or the designated health care provider.

1) Compiling a Cleanup Kit

To prepare a cleanup kit for blood and body fluid spills, package the following materials in a 12” x 15” clear zip-lock bag:

- a) gloves, rubber or vinyl, household-type (2 pair);
- b) clean absorbent rags (4);
- c) absorbent paper towels (15);
- d) disposable bag marked “contaminated” size 23”x10”x39”, minimum thickness 1.5 mils.;
- e) Clear plastic bag 13”x10”x39”, minimum thickness 1.5 mils.; and
- f) Bottle of “hospital disinfectant” (containing quaternary ammonium chlorides in at least 0.8% dilution), or a bottle of household bleach such as “Clorox” or “Purex” (5.25% sodium hypochlorite).

2) Selection of Disinfectants

Dilute solutions of sodium hypochlorite are reported extremely effective against both HIV and the Hepatitis B virus and therefore have been recommended for use in environmental decontamination procedures. Quaternary ammonium compounds are less effective against Hepatitis B. Chlorine in solution inactivates viruses quickly and efficiently, but must reach the virus particles to do so.

Proteinaceous materials may interfere with the ability of the appropriate disinfectant solution to reach the virus particles. Since quaternary disinfecting compounds may act as a detergent as well as a disinfectant, these compounds may be used for cleaning and removal of proteinaceous materials from

surfaces. However, when using such a compound to clean a surface, it shall be necessary to follow with the use of chlorine solution for final disinfection.

Most blood or fluids shall be removed from the surface during routine medical cleaning procedures before application of the disinfectant; in such cases, use of sodium hypochlorite solution shall be sufficient.

3) Selection of Gloves

Household or industrial rubber gloves are recommended for use rather than surgical rubber gloves, as surgical gloves are somewhat porous and are less resistant to mechanical damage and punctures during clean-up procedures.

4) Assignment of Cleaning Duties to Detainees in Medical Facilities

Detainee workers may be assigned duties cleaning the medical facility. Detainees are permitted to clean floors and walls and to remove trash, but are not permitted to clean medical equipment.

5) Instructions for Use of Clean-Up Kit

- a) Open the bag and remove the supplies.
- b) Put on one pair of gloves.
- c) Depending on the type of disinfectant in the kit, take out bottle of "hospital disinfectant," or prepare a dilute solution of sodium hypochlorite. To prepare a 1:10 dilution of 5.25% sodium hypochlorite, mix 1 part of 5.25% sodium hypochlorite (common household bleach) with 10 parts water.
- d) Open the large clear plastic bag and the large bag marked "contaminated." Place them next to each other.

- e) Use paper towels to absorb as much of the spilled fluid as possible; then place soiled paper towels in the large clear plastic bag.
- f) Pour the solution carefully onto the spill area. Dispose of the empty bottle in the large, clear plastic bag. Leave disinfectant in place for 15 minutes.
- g) Use the rags to clean the area, and place rags in the large clear plastic bag.
- h) Tie off the clear plastic bag and place it inside the large plastic bag marked "Contaminated."
- i) Remove gloves carefully and place them in the plastic bag marked "Contaminated."
- j) Put on the second pair of gloves and tie the "Contaminated" trash bag closed.
- k) Properly dispose of the "Contaminated" trash bag in a contaminated-waste receptacle.
- l) Properly dispose of the second pair of gloves in the contaminated-waste receptacle.
- m) Wash your hands.
- n) Prepare a new clean-up kit.

NOTE: Do not place linen or non-disposable articles in the "Contaminated" trash bag.

- c. Hazardous and Infectious Waste Disposal
Infectious and hazardous waste generated at a medical facility shall be stored and disposed of safely and in accordance with all applicable federal and state regulations.

For identified wastes that represent sufficient risk of causing infection or injury during handling and disposal, the following precautions shall be applied.

1) Definitions

Hazardous or infectious waste is defined as: microbiology laboratory waste; human blood and blood products; sharps (as defined in “Section VIII,” “A” above); laboratory and other chemicals; or certain drugs such as antineoplastic.

Miscellaneous biomedical waste is defined as waste materials that are not specifically defined as infectious waste. Such waste includes bandages, dressings, casts, catheters and disposable pads.

Waste from detainees in isolation is not considered to be infectious waste unless it falls within the specific definition of infectious waste as stated above.

2) Collection and Storage

Infectious waste must be separated from the general waste stream and clearly labeled as infectious, adhering to the following practices:

- a) Infectious waste shall be double-bagged and tied and labeled “Infectious Waste.”
- b) The bags used must be impermeable, commercially supplied red bags intended specifically for biohazardous waste storage.
- c) Miscellaneous biomedical waste shall be double-bagged and tied but need not be labeled as infectious.

3) Treatment and Disposal

Blood products and designated body fluids shall be poured slowly and carefully down a toilet to prevent splash. Compacting of untreated infectious waste is prohibited. The waste disposal contractor must meet all state and local requirements for transportation and disposal.

E. Barber Operations

Sanitation in barber operations is imperative because of the possible transfer of diseases through direct contact or by towels, combs and clippers. Towels shall not be reused by other detainees until sanitized. Instruments such as combs and clippers shall not be used successively on detainees without proper cleaning and disinfecting.

- 1. For sanitation reasons, barbering operations must be located in a room that is not used for any other purpose. The room must have sufficient light, and be supplied with hot and cold running water. The floors, walls and ceilings shall be smooth, nonabsorbent and easily cleaned.
- 2. Each barbershop shall have all equipment and facilities necessary for maintaining sanitary procedures for hair care, including covered metal containers for waste, disinfectants, dispensable headrest covers, laundered towels and haircloths.
- 3. After each detainee visit, all hair care tools that came in contact with the detainee shall be cleaned and effectively disinfected. Ultraviolet lights are not appropriate for sterilization but may be used for maintaining tools that have already been properly sterilized.
- 4. Detailed hair care sanitation regulations shall be conspicuously posted in each barbershop for the use of all hair care personnel and detainees. Cotton pads, absorbent cotton and other single or dispensable toilet articles may not be reused, and shall be placed in a proper waste receptacle immediately after use. The common use of brushes, neck dusters, shaving mugs and shaving brushes is prohibited.
- 5. Barbers or beauticians shall not provide service to any detainee when the skin of the detainee’s face, neck or scalp is inflamed, or when there is scaling, pus or other skin eruptions, unless

service of such detainee is performed in accordance with the specific authorization of the

chief medical officer. No person who is infested with head lice shall be served.

Appendix 1.2.A: Common Flammable, Toxic and Caustic Substances

Class I Liquids

Gasoline
Benzene (Petroleum ether)
Acetone
Hexane
Lacquer
Lacquer thinner
Denatured alcohol
Ethyl alcohol
Xylene (Xylol)
Contact cement (flammable)
Toluene (Toluene)
Methyl ethyl ether
Methyl ethyl ketone
Naphtha Y, M and P

Class II Liquids

Diesel fuel
Motor fuel
Kerosene
Cleaning solvents
Mineral spirits
Acetone

Class III Liquids

Paint (oil base)
Linseed oil
Mineral oil
Neat's-foot oil
Sunray conditioner
Guardian fluid

Toxic Substances

Ammonia
Chlorine
Antifreeze
Duplicating fluid
Methyl alcohol
Defoliants
Herbicides
Pesticides

Caustic Substances

Lye
Muriatic acid
Caustic soda
Sulfuric acid
Tannic acid

2.12 Special Management Units

I. Purpose and Scope

This detention standard protects detainees, staff, contractors, volunteers and the community from harm by segregating certain detainees from the general population in Special Management Units with an Administrative Segregation section for detainees segregated for administrative reasons and a Disciplinary Segregation section for detainees segregated for disciplinary reasons.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

For all types of facilities, procedures that appear in italics with a marked (**) on the page indicate optimum levels of compliance for this standard.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. The facility shall have a Special Management Unit (SMU) with provisions for separating the administrative segregation section, for detainees segregated from the general population for administrative reasons, from the disciplinary segregation section, for detainees segregated from the general population for disciplinary reasons.
2. Detainees housed in the general population, staff, contractors, volunteers and the local community shall be protected from harm by the segregation of certain detainees in an SMU.
3. Any detainee who represents an immediate, significant threat to safety, security or good order shall be immediately controlled by staff and, if cause exists and supervisory approval granted, placed in administrative segregation. ICE and the detainee shall be immediately provided a copy of the administrative segregation order describing the reasons for the detainee’s placement in the SMU. The attorney of record shall be notified of the administrative segregation order within 24 hours.
4. Administrative segregation may also be available to detainees for the purpose of providing “protective custody.” A detainee shall be placed in “protective custody” status in administrative segregation only when there is documentation and supervisory approval that it is necessary to protect a detainee from harm and that no reasonable alternatives are available.
5. A detainee shall be placed in disciplinary segregation only after a finding by a disciplinary hearing panel that the detainee is guilty of a prohibited act or rule violation classified at a “greatest,” “high” or “high-moderate” level, as defined in “Appendix 3.1.A: Prohibited Acts and Sanctions,” found in “3.1 Disciplinary System.”
6. Health care personnel shall be immediately

- informed when a detainee is admitted to an SMU and shall conduct an assessment and review of the detainees medical and mental health status and care needs. Health care personnel shall at a minimum conduct a daily assessment of detainees in an SMU. Where reason for concern exists, a qualified medical, or mental health professional shall conduct a complete evaluation.
7. Detainees with serious mental illness may not be automatically placed in an SMU on the basis of such mental illness. Every effort shall be made to place detainees with serious mental illness in a setting in or outside of the facility in which appropriate treatment can be provided, rather than an SMU, if separation from the general population is necessary
 8. The status of detainees in SMUs shall be reviewed by supervisory staff in accordance with required time schedules, and the results of those reviews shall be documented.
 9. A detainee shall remain in disciplinary segregation for no more than 30 days per violation, and his/her status shall be reviewed by the facility administrator and the Field Office Director after the first 30 days and each 30 days thereafter, to determine whether continued detention in disciplinary segregation is warranted.
 10. Detainees in SMU shall be afforded basic living conditions that approximate those provided to the general population, consistent with the safety and security considerations that are inherent in more controlled housing, and in consideration of the purpose for which each detainee is segregated.
 11. In general, when a detainee in an SMU is deprived of any usually authorized items or activity, a report of the action shall be forwarded to the facility administrator for notice and review.
 12. Detainees in SMU shall have regular access to supervisory, management, program and health care staff.
 13. Each detainee in an SMU shall be offered individual recreation or appropriate group recreation time, unless documented security, safety, or medical considerations dictate otherwise.
 14. Detainees in SMU shall be able to write, send and receive mail and correspondence as they would otherwise be able to do while detained within the general population.
 15. Detainees in SMU shall be provided opportunities for general visitation, including legal visitation, unless there are substantial, documented reasons for withholding those privileges.
 16. Detainees in SMU shall have access to personal legal materials, law library materials and legal visits, in accordance with provisions in the PBNDS.
 17. Detainees in SMU shall have access to telephones, in accordance with provisions in the PBNDS.
 18. Detainees in SMU shall have access to programs and services such as commissary, library, religious guidance and recreation, in accordance with provisions in the PBNDS.
 19. Detailed records shall be maintained on the circumstances related to a detainee's confinement to the SMU, through required permanent SMU logs and individual detainee records.
 20. The applicable content and procedures in this standard shall be communicated to the detainee in a language or manner the detainee can understand.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard replaces “Special Management Unit (Administrative Segregation)” and “Special Management Unit (Disciplinary Segregation),” both dated 12/2/2008.

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2A-44 through 2A-66.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “2.4 Facility Security and Control”;
- “2.6 Hold Rooms in Detention Facilities”;
- “2.10 Searches of Detainees”;
- “2.13 Staff-Detainee Communication”;
- “3.1 Disciplinary System”;
- “4.5 Personal Hygiene”;
- “4.6 Significant Self-harm and Suicide Prevention and Intervention”;
- “5.1 Correspondence and Other Mail”;
- “5.4 Recreation”;
- “5.6 Telephone Access”;
- “5.7 Visitation”; and

- “6.3 Law Libraries and Legal Material.”

V. Expected Practices

A. Placement in Administrative Segregation

Administrative Segregation status is a nonpunitive status in which restricted conditions of confinement are required only to ensure the safety of detainees or others, the protection of property, or the security or good order of the facility. For matters of safety and security, staff may have to take immediate action to control a detainee, including placement in administrative segregation.

Detainees in administrative segregation shall not be commingled with detainees in disciplinary segregation.

Each facility shall develop and follow written procedures, consistent with this standard, governing the management of its administrative segregation unit. These procedures must document detailed reasons for placement of an individual in administrative segregation. Detainees must be provided a copy of the administrative segregation order.

Prior to the detainee’s placement in administrative segregation, the facility administrator or designee shall review the case to determine whether administrative segregation is in fact warranted. The facility administrator may delegate to a supervisor the authority to place a detainee in administrative segregation.

1. Reasons for Placement in Administrative Segregation

A detainee may be placed in administrative segregation when the detainee’s continued presence in the general population poses a threat to life, property, self, staff, or other detainees; for the secure and orderly operation of the facility; for

medical reasons; or under other circumstances as set forth below. Some examples of incidents warranting a detainee’s assignment to administrative segregation include, but are not limited to, the following.

- a. A detainee is awaiting an investigation or a hearing for a violation of facility rules. Pre-disciplinary hearing detention shall be ordered only as necessary to prevent further violation of those rules or to protect the security and orderly operation of the facility.
 - 1) Pre-disciplinary hearing detention is not to be used as a punitive measure.
 - 2) Time served in pre-hearing detention may be deducted from any time ordered by the Institutional Disciplinary Panel (IDP).
- b. A detainee is a threat to the security of the facility. The facility administrator may determine that a detainee’s criminal record, past behavior at other institutions, behavior while in ICE/ERO detention, or other evidence is sufficient to warrant placement of the detainee in administrative segregation. Copies of records supporting this action shall be attached to the administrative segregation order.
- c. A detainee requires protection. Protective custody may be initiated at the detainee’s request or by staff as needed to protect the detainee from harm. Each facility shall develop procedures to consider continued placement in protective custody as well as provisions for release from protective custody when appropriate. Frequently, the types of detainees who require this type of treatment include, but are not limited to:
 - 1) victims of detainee assaults;
 - 2) detainee informants or witnesses (e.g., detainees who provide information to institutional staff or any law enforcement

agency concerning improper or criminal activities by others);

- 3) sexual predators or other detainees charged with a heinous or notorious crime;
- 4) detainees who have been pressured by other detainees to participate in sexual activity;
- 5) detainees who refuse to enter the general population because of alleged intimidation from other detainees;
- 6) detainees who refuse to return to the general population, but who do not provide the reason for refusal;
- 7) detainees who appear to be in danger of bodily harm;
- 8) detainees who seek protection, claiming to be former law enforcement officers or to have held sensitive law enforcement positions, whether or not there is official information to verify the claim; or
- 9) detainees who request protective custody.

Use of administrative segregation to protect vulnerable populations shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, and as a last resort. Detainees who have been placed in administrative segregation for protective custody shall have access to programs, services, visitation, counsel and other services available to the general population to the maximum extent possible.
- d. A detainee is scheduled for release, removal, or transfer within 24 hours. Such segregation may be ordered for security reasons or for the orderly operation of the facility.

- e. The IDP may order a detainee into administrative segregation following disciplinary segregation if it determines that releasing the detainee into the general population would pose a threat to the detainee or security and orderly operation of the facility. A detainee transferred from disciplinary segregation to administrative segregation shall enjoy the same privileges as all other detainees in administrative segregation, provided receipt of such privileges poses no threat to the safety, security, or orderly operation of the facility.
- f. A medical professional who ordered a detainee removed from the general population shall complete and sign an administrative segregation order (see below), unless the detainee is to stay in the medical department’s isolation ward.

2. Administrative Segregation Order

A written order shall be completed and approved by the facility administrator or designee before a detainee is placed in administrative segregation, except when exigent circumstances make such documentation impracticable. In such cases, an order shall be prepared as soon as possible.

- a. Prior to a detainee’s actual placement in administrative segregation, the facility administrator or designee shall complete the administrative segregation order (Form I-885 or equivalent), detailing the reasons for placing a detainee in administrative segregation.
- b. In an emergency, the detainee’s placement in administrative segregation may precede the paperwork, which the facility administrator or designee shall prepare as soon as possible after the detainee’s placement.
- c. All memoranda, medical reports and other relevant documents shall be attached to the administrative segregation order.
- d. If the segregation is ordered for protective

custody purposes, the order shall state whether the detainee requested the segregation, and whether the detainee requests a hearing concerning the segregation.

- e. The administrative segregation order shall be immediately provided to the detainee in a language or manner the detainee can understand, unless delivery would jeopardize the safe, secure, or orderly operation of the facility.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate

- f. The order shall remain on file with the SMU until the detainee is returned to the general population.
- g. When the detainee is released from the SMU, the releasing officer shall indicate the date and time of release on the administrative segregation order. The completed order shall then be forwarded to the Chief of Security for inclusion in the detainee’s detention file.

3. Review of Detainee Status in Administrative Segregation

All facilities shall implement written procedures for the regular review of all detainees held in administrative segregation, consistent with the procedures specified below.

- a. A supervisor shall conduct a review within 72 hours of the detainee’s placement in administrative segregation to determine whether segregation is still warranted.

- 1) The review shall include an interview with the detainee.
 - 2) A written record shall be made of the decision and the justification. The administrative segregation review (Form I-885) shall be used for the review.
 - 3) If the detainee has been segregated for his/her own protection, but not at the detainee’s request, the signature of the facility administrator or assistant facility administrator is required on the Form I-885 to authorize the alien’s continued detention.
- b. A supervisor shall conduct an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter, for the first 30 days and every 10 days thereafter, at a minimum.
 - c. The review shall include an interview with the detainee, and a written record shall be made of the decision and its justification.
 - d. When the reviewing authority concludes that the detainee should be removed from administrative segregation, he/she shall submit that recommendation to the facility administrator (or designee) for approval.
 - e. A copy of the decision and justification for each review shall be given to the detainee unless, in exceptional circumstances, this provision would jeopardize the facility’s safety, security, or orderly operations. The detainee shall also be given an opportunity to appeal a review decision to the facility administrator.
 - f. After seven consecutive days in administrative segregation, the detainee may exercise the right to appeal the conclusions and recommendations of any review conducted to the facility administrator. The detainee may use any standard form of written communication, for

- example, a detainee request, to file the appeal.
- g. If a detainee has been in administrative segregation for more than 30 days and objects to that status, the facility administrator shall review the case to determine whether that status should continue. This review shall take into account the detainee’s views and shall result in a written record of the decision and its justification. A similar review shall take place each 30 days thereafter.
- h. When a detainee has been held in administrative segregation for more than 30 days, the facility administrator shall notify the Field Office Director, who shall notify the ICE/ERO Deputy Assistant Director, Detention Management Division in writing.

B. Placement in Disciplinary Segregation

To provide detainees in the general population a safe and orderly living environment, facility authorities may discipline anyone whose behavior does not comply with facility rules and regulations. Such discipline may involve temporary confinement in the SMU, apart from the general population. A detainee may be placed in disciplinary segregation only by order of the IDP, or its equivalent, after a hearing in which the detainee has been found to have committed a prohibited act and only when alternative dispositions may inadequately regulate the detainee’s behavior.

1. Duration

The maximum sanction is 30 days in disciplinary segregation per violation, except in extraordinary circumstances, such as violations of offense 101 through 109 listed in the “Greatest” offense category in Appendix 3.1.A. After the first 30 days, and each 30 days thereafter, the facility administrator shall send a written justification for the continued segregation to the Field Office

Director.

2. Disciplinary Segregation Order

A written order shall be completed and signed by the chair of the IDP (or disciplinary hearing officer) before a detainee is placed into disciplinary segregation.

- a. Prior to a detainee’s actual placement in disciplinary segregation, the IDP chairman shall complete the disciplinary segregation order (Form I-883 or equivalent), detailing the reasons for placing a detainee in disciplinary segregation. All relevant documentation must be attached to the order.
- b. The completed disciplinary segregation order shall be immediately provided to the detainee in a language or manner the detainee can understand, unless delivery would jeopardize the safe, secure, or orderly operation of the facility.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

The order shall remain on file with the SMU until the detainee is returned to the general population.

- c. When the detainee is released from the SMU, the releasing officer shall indicate the date and time of release on the disciplinary segregation order. The completed order shall then be forwarded to the Chief of Security for inclusion in the detainee’s detention file.

3. Review of Detainee Status in Disciplinary

Segregation

All facilities shall implement written procedures for the regular review of all disciplinary segregation cases, consistent with the following procedures:

- a. A security supervisor, or the equivalent, shall interview the detainee and review his/her status in disciplinary segregation every seven days to determine whether the detainee:
 - 1) Abides by all rules and regulations; and,
 - 2) Is provided showers, meals, recreation and other basic living standards, as required by this detention standard.
- b. The supervisor shall document his/her findings after every review, by completing a disciplinary segregation review (Form I-887).
 - 1) The supervisor may recommend the detainee’s early release from the SMU upon finding that time in disciplinary segregation is no longer necessary to regulate the detainee’s behavior.
 - 2) An early-release recommendation must have the facility administrator’s approval before the detainee may be returned to the general population. In conducting this review, the facility administrator will consider any request by the detainee to present written evidence or available witnesses. The review shall take into account the detainee’s views.
 - 3) The supervisor may shorten, but not extend, the original sanction.
 - 4) All review documents shall be placed in the detainee’s detention file.
 - 5) After each formal review, the detainee shall be given a written copy of the reviewing officer’s decision and the basis for his/her finding, unless such a copy may result in a compromise of institutional security. If a

written copy cannot be delivered, the detainee shall be advised of the decision orally, and the detention file shall so note, identifying the reasons why the notice was not provided in writing.

- c. The facility administrator and the Field Office Director shall review the status of a detainee in disciplinary segregation after the first 30 days of segregation, and each 30 days thereafter, to determine whether continued detention in disciplinary segregation is warranted.

C. Logs and Records

1. Permanent SMU Log

A permanent log shall be maintained in the SMU to record all activities concerning SMU detainees (e.g., meals served, recreational time, visitors, etc.).

The SMU log shall record the detainee’s name, A-number, housing location, date admitted, reasons for admission, status review dates, tentative release date (for detainees in disciplinary segregation), the authorizing official, and date released. These logs shall also be used by supervisory staff and other officials to record their visits to the unit.

2. Visitors’ Log

A separate log shall be maintained in the SMU of all persons visiting the unit. This separate record shall include notation of:

- a. the time and date of the visit, and
- b. any unusual activity or behavior of an individual detainee, with a follow-up memorandum sent through the facility administrator to the detainee’s file.

3. Special Management Housing Unit Record

The Special Management Housing Unit Record or comparable form shall be prepared immediately upon the detainee’s placement in the SMU.

- a. The special housing unit officer shall immediately record:
 - 1) whether the detainee ate, showered, recreated and took any medication; and
 - 2) any additional information, such as whether the detainee has a medical condition, or has exhibited suicidal/assaultive behavior.
 - 3) the officer that conducts the activity shall print his/her name and sign the record.
- b. The facility medical officer shall sign each individual’s record when he/she visits a detainee in the SMU. The housing officer shall initial the record after the medical visits are completed, but no later than the end of the shift.
- c. A new form must be created for each week the detainee is in the SMU. The completed weekly forms shall be retained at the SMU until the detainee is released from the SMU.
- d. Upon a detainee’s release from the SMU, the releasing officer shall attach that detainee’s entire housing unit record to either the administrative segregation order or disciplinary segregation order and forward it to the Chief of Security or equivalent for inclusion into the detainee’s detention file.

D. Basic Requirements for All Special Management Units

Conditions of confinement are based on the amount of supervision required to control a detainee and to safeguard the detainee, other detainees and facility staff.

***Detainees must be evaluated by a medical professional prior to placement in an SMU.*

In every instance, any exceptions to these requirements shall be:

- 1. made only for the purpose of ensuring detainee

and facility staff safety and security (i.e., not for purposes of punishment);

2. approved by a supervisor (or higher official);
3. on a temporary and situational basis, continued only for as long as it is justified by threat to the safety or security of the facility, its staff, or detainee population; and
4. documented in the Permanent SMU Unit log and, under circumstances specified later in this detention standard, documented in a memo which shall be placed in the individual detainee’s detention file.

When a detainee in an SMU is deprived of any usual authorized items or activity, a report of the action shall be forwarded to the facility administrator for review. This report shall be made part of the detainee’s detention file.

E. Translation/Interpretation Services

Detainees shall be provided translation or interpretation services while in the SMU, to assist with their understanding of the reason and conditions of confinement as well as their rights and responsibilities while in confinement.

F. Special Needs

Detainees in the SMU shall be provided appropriate accommodations and professional assistance for special conditions as needed (e.g., medical, therapeutic, or mental health treatment), on an equal basis as those in the general population.

G. Control of Contraband and Tools

In accordance with procedures detailed in standard “2.4 Facility Security and Control,” each facility administrator is required to establish written policy and procedures to control and secure SMU entrances, contraband, tools and food carts.

H. Cell Occupancy

Ordinarily, the number of detainees confined to each cell or room may not exceed the capacity for which it was designed. Under exigent circumstances, before approving any additional cell occupancy on a temporary basis, the facility administrator shall consult with ICE/ERO Detention Management Division, who shall consult with DHS/ICE legal counsel. If a decision is made to approve such additional cell occupancy, a report of the action shall be filed with the facility and with the Field Office Director.

I. Cell Condition

Cells and rooms used for purposes of segregation must be well ventilated, adequately lit, appropriately heated/cooled and maintained in a sanitary condition at all times in accordance with the standards for general population, consistent with safety and security.

1. All SMU cells must be equipped with beds that are securely fastened to the cell floor or wall. SMU cells must also be conducive to maintaining a safe and secure environment for all detainees, with particular emphasis on allowing for full visibility and appropriate observation by staff and wherever possible on eliminating potential safety hazards such as sharp edges and anchoring devices.
2. Conditions for close observation in a “dry cell” without water are detailed in standard “2.10 Searches of Detainees.”

J. Personal Property

Each facility shall issue guidelines in accordance with this standard concerning the property detainees may retain in each type of segregation. Generally, detainees in disciplinary segregation shall be subject to more stringent personal property restrictions and control than those in administrative segregation, given the non-punitive nature of administrative

segregation.

K. Privileges

Each facility shall issue guidelines in accordance with this standard concerning the privileges detainees may have in each type of segregation.

1. Administrative Segregation

Generally, these detainees shall receive the same privileges available to detainees in the general population, consistent with any safety and security considerations for detainees, facility staff and security.

When space and resources are available, detainees in administrative segregation may be provided opportunities to spend time outside their cells (in addition to the required recreation periods), for such activities as socializing, watching TV and playing board games, and may be assigned to work details (e.g., as orderlies in the SMU).

2. Disciplinary Segregation

Generally, these detainees shall have fewer privileges than other detainees in either the general population or in administrative segregation. More specifically, they are subject to more stringent personal property control including, but not limited to, limitations on their reading material and television viewing (which may be completely terminated), and restricted commissary or vending machine purchases.

L. Close Supervision

Detainees in SMU shall be personally observed and logged at least every 30 minutes on an irregular schedule. For cases that warrant increased observation, the SMU personnel shall personally observe detainees accordingly. (See also standard “4.6 Significant Self-harm and Suicide Prevention and Intervention” and the “Dry Cells” section in standard “2.10 Searches of Detainees.”)

M. Supervisory and Staff Visits

In addition to the direct supervision performed by unit staff:

1. The shift supervisor shall see each segregated detainee daily, including on weekends and holidays.
2. The facility administrator (or designee) shall visit each SMU daily.
3. Program staff may visit a detainee upon his/her request.

The facility administrator may require other staff to visit each detainee daily.

N. Health Care

Health care personnel shall conduct face-to-face medical assessments at least once daily for detainees in an SMU. Where reason for concern exists, assessments shall be followed up with a complete evaluation by a qualified medical or mental health professional, and indicated treatment.

Detainees with serious mental illness may not be automatically placed in an SMU on the basis of such mental illness. Every effort shall be made to place detainees with serious mental illness in a setting in or outside of the facility in which appropriate treatment can be provided, rather than an SMU, if separation from the general population is necessary.

Medical visits shall be recorded on the SMU housing record or comparable form, and any action taken shall be documented in a separate logbook. A detainee’s mental health status shall be reviewed and documented at least once every 30 days.

O. Meals

Detainees in SMU shall be provided three nutritionally adequate meals per day, according to the general population meal schedule and ordinarily

from the same menu. Deviation from meals served to the general population must be documented, including an explanation as to why SMU did not receive the same meal.

P. Clothing and Personal Hygiene

In accordance with standard “4.5 Personal Hygiene,” detainees in SMU may shave and shower at least three times weekly and receive other basic services such as laundry, hair care, barbering, clothing, bedding and linen equivalent to general population detainees and consistent with safety and security of the facility.

1. As needed, staff shall provide toilet tissue, a wash basin, tooth brush and shaving utensils, and may issue retrievable kits of toilet articles.
2. A detainee may be denied such items as clothing, mattress, bedding, linens, or pillow for medical or mental health reasons if his/her possession of such items raises concerns for detainee safety and/or facility security.
 - a. All denials of such items shall be documented.
 - b. If a detainee is so disturbed that he/ she is likely to destroy clothing or bedding, or create a disturbance by risking harm to self or others, the medical department shall be notified immediately and a regimen of treatment and control shall be instituted by the medical staff, as necessary.
 - c. Extreme detainee behavior, such as destroying clothing or bedding or harmful behavior to self or others, must be documented, made part of the detainee’s file with the facility, and reported to the Field Office Director to implement necessary efforts to protect and care for the detainee.

Q. Correspondence

In accordance with standard “5.1 Correspondence and Other Mail,” detainees in an SMU may write, send and receive letters and other correspondence, in a manner similar to those housed in the facility’s general population.

R. Visitation

In accordance with standard “5.7 Visitation,” while in an SMU, a detainee ordinarily retains visiting privileges.

Segregated detainees may ordinarily use the visiting room during normal visiting hours. However, the facility may restrict or disallow visits for a detainee who violates visitation rules or whose behavior otherwise indicates the detainee would be a threat to the security or the good order of the visiting room.

1. Visitation may be restricted or disallowed when a detainee in administrative segregation is charged with, or has been found to have committed a prohibited act related to visiting privileges, or has otherwise acted in a way that would reasonably indicate that he/she would be a threat to the orderliness or security of the visiting room.
2. Under no circumstances may detainees participate in visitation while in restraints. If the detainee’s behavior warrants restraints, the visit may not be granted under general population visiting conditions.
3. Where visits are restricted or disallowed, a report shall be filed with the facility administrator and ICE/ERO, and made part of the detainee’s file.
4. Detainees in protective custody, and violent and disruptive detainees, shall not use the visitation room during normal visitation hours. In cases in which a visit would present an unreasonable security risk, visits may be disallowed for a particular detainee.

S. Legal Visits

In accordance with standard “5.7 Visitation,” detainees in SMU may not be denied legal visitation. However, the facility administrator or designee may implement whatever security precautions are necessary to protect the detainee and visitors and maintain good order. In such cases, staff shall advise legal service providers and assistants of any security concerns as soon as possible.

T. Religious Guidance

In accordance with standard “5.5 Religious Practices,” detainees in an SMU shall be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility.

Detainees in an SMU shall be allowed visits by members of the clergy or other religious service providers, upon request, unless the supervisor determines that such a visit presents a safety or security risk or would interfere with the orderly operation of the facility. Violent or uncooperative detainees may be temporarily denied access to religious guidance. Staff shall advise the religious service provider of the detainee’s present state of behavior before he/she agrees to visit the detainee.

Each facility shall develop procedures to allow detainees to retain religious items within their possession (e.g., religious wearing apparel, religious headwear, prayer rugs, beads, prayer rocks, medallions) consistent with good security practices. (See also standard “5.5 Religious Practices”).

U. Reading Materials (Non-Legal)

Detainees in SMU shall have access to reading materials, including religious materials. The Recreation Specialist shall offer each detainee soft-bound, reading materials of this type on a rotating

basis.

V. Legal Materials

Detainees in SMU shall have access to legal materials in accordance with standard “6.3 Law Libraries and Legal Material.”

Detainees may retain all personal legal material upon admittance to an SMU, provided such material does not create a safety, security, or sanitation hazard.

Detainees with a large amount of personal legal material may be required to place a portion with their stored personal property, with access permitted during scheduled hours. Requests for access to such 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 in the event of documented security reasons.

W. Law Library and Legal Rights Group Presentations Access

In accordance with standard “6.3 Law Libraries and Legal Material,” detainees housed in administrative segregation or disciplinary segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations.

1. Facilities may supervise the library use of a detainee housed in an SMU as warranted by the individual’s behavior. Violent or uncooperative detainees may be temporarily denied access to the law library if necessary to maintain security, until such time as their behavior warrants resumed access. In some circumstances, legal material may be brought to individuals in disciplinary segregation.
2. Detainees segregated for protection must be provided access to legal materials. Such

detainees may be required to use the law library separately or, if that is not feasible, legal materials must be brought to them, upon request.

3. Denial of access to the law library must be:
 - a. supported by compelling security concerns;
 - b. for the shortest period required for security; and
 - c. fully documented in the SMU housing logbook.

The facility administrator shall notify ICE/ERO every time access is denied, with documentation placed in the detention file.

In accordance with standard “6.4 Legal Rights Group Presentations,” facility staff and/or ICE/ERO shall notify detainees in segregation in advance of legal rights group presentations and provide these detainees an opportunity to attend. Group legal rights presentations shall be open to all detainees, including detainees in SMUs, except when a particular detainee’s attendance may pose a security risk. If a detainee in segregation cannot attend for this reason, designated facility staff shall make alternative arrangements to offer a separate presentation and individual consultation to the detainee, if the detainee or the presenter so requests.

X. Recreation

Recreation for detainees housed in the SMU shall be separate from the general population. As necessary or advisable to prevent assaults and to reduce management problems, recreation for some individuals shall be solitary and shall occur separate from all other detainees. In accordance with standard “5.4 Recreation”:

1. Detainees in the SMU for administrative reasons shall be offered at least one hour of recreation per day, outside their cells and scheduled at a reasonable time, at least seven days per week.

Detainees in the SMU for disciplinary reasons shall be offered at least one hour of recreation per day, outside their cells and scheduled at a reasonable time, at least five days per week.

***Detainees in the SMU for administrative reasons shall be offered at least two hours of exercise per day, seven days a week, unless documented security, safety or medical considerations dictate otherwise.*

***Detainees in the SMU for disciplinary reasons shall be offered at least one hour of exercise per day, seven days a week, unless documented security, safety or medical considerations dictate otherwise.*

2. Where cover is not provided to mitigate inclement weather, detainees shall be provided weather-appropriate equipment and attire
3. The recreation privilege shall be denied or suspended only if the detainee’s recreational activity may unreasonably endanger safety or security:
 - a. A detainee may be denied recreation privileges only with the facility administrator’s written authorization, documenting why the detainee poses an unreasonable risk even when recreating alone. However, when necessary to control an *immediate* situation for reasons of safety and security, SMU staff may deny an instance of recreation, upon verbal approval from the shift supervisor, and shall document the reasons in the unit logbook(s). The supervisor may also require additional written documentation from the SMU staff for the facility administrator. When a detainee in an SMU is deprived of recreation (or any usual authorized items or activity), a written report of the action shall be forwarded to the facility administrator. Denial of recreation must be

- evaluated daily by a shift supervisor.
- b. A detainee in disciplinary segregation may temporarily lose recreation privileges upon a disciplinary panel's written determination that he/she poses an unreasonable risk to the facility, himself/herself, or others.
 - c. When recreation privileges are suspended, the disciplinary panel or facility administrator shall provide the detainee written notification, including the reason(s) for the suspension, any conditions that must be met before restoration of privileges, and the duration of the suspension provided the requisite conditions are met for its restoration.
 - d. The denial of recreation privileges shall be included as part of the regular reviews required for all detainees in SMU status. In accordance with SMU procedures, and using the forms required by this standard, the reviewer(s) shall state, in writing, whether the detainee continues to pose a threat to self, others, or facility security and, if so, why.
 - e. Denial of recreation privileges for more than seven days requires the concurrence of the facility administrator and a health care professional. It is expected that such denials shall rarely occur, and only in extreme circumstances.

- f. The facility shall notify the Field Office Director in writing when a detainee is denied recreation privileges in excess of seven days.

Y. Telephone Access

As detailed in standard "5.6 Telephone Access," detainees in SMU shall have access to telephones in a manner that is consistent with the special safety and security requirements of such units. Detainees shall be permitted to place calls to attorneys, other legal representatives, courts, government offices (including the DHS Office of the Inspector General, DHS Office for Civil Rights and Civil Liberties, ICE/OPR Joint Intake Center, and embassies or consulates, according to the facility schedule. Any denial of telephone access shall be documented.

In general, any detainee in an SMU may be reasonably restricted from using or having access to a phone if that access is used for criminal purposes or would endanger any person, or if the detainee damages the equipment provided. In such instances, staff must clearly document why such restrictions are necessary to preserve the safety, security and good order of the facility. Detainees in disciplinary segregation may be restricted, as part of the disciplinary process, from using telephones to make general calls. However, even in disciplinary segregation, detainees shall have telephone access for special purposes.

3.1 Disciplinary System

I. Purpose and Scope

This detention standard promotes a safe and orderly living environment for detainees by establishing a fair and equitable disciplinary system, requiring detainees to comply with facility rules and regulations, and imposing disciplinary sanctions to those who do not comply.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees shall be informed of facility rules and regulations, prohibited acts, disciplinary sanctions that may be imposed, their rights in the disciplinary system and the procedure for appealing disciplinary findings.
2. Each facility shall have graduated severity scales

of prohibited acts and disciplinary consequences.

3. Where permitted by facility policy, staff shall informally settle minor transgressions through mutual consent, whenever possible.
4. Staff who have reason to suspect that a detainee has engaged in a prohibited act or who witness a prohibited act that cannot or should not be resolved informally, shall prepare a clear, concise and complete incident report.
5. Each Incident Report shall be objectively and impartially investigated and reported, ordinarily by a person of supervisory rank.
6. A serious incident that may constitute a criminal act shall be referred to the proper investigative agency as appropriate, and administrative investigations shall be suspended pending the outcome of that referral.
7. At each step of the disciplinary and appeal process, the detainee shall be advised in writing of his/her rights in a language he/she understands, and translation or interpretation services shall be provided as needed.
8. If any staff at any stage of the disciplinary process has reason to believe that the detainee is mentally ill or mentally incompetent, the facility shall provide for an assessment by qualified medical personnel.
9. A Unit Disciplinary Committee (UDC) shall further investigate and adjudicate the incident and may impose minor sanctions or refer the matter to a higher level disciplinary panel.
10. An Institution Disciplinary Panel (IDP) shall conduct formal hearings on Incident Reports referred from UDCs and may impose higher level sanctions for “greatest” and “high” level prohibited acts.
11. Detainees before the IDP shall be afforded a

staff representative, upon request, or automatically if the detainee is illiterate, has limited English language skills or otherwise needs special assistance.

- 12. Actions of the IDP shall be reviewed by the facility administrator, who may concur with the findings and sanctions or modify them.
- 13. At all steps in the disciplinary process, any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future.
- 14. All steps of the disciplinary process shall be performed within the required time limits.
- 15. At all steps of the disciplinary process, accurate and complete records shall be maintained. The detainee shall receive copies of all reports, exhibits and other documents considered or generated in the hearing process, except insofar as the disclosure of such documents may pose an imminent threat to the safety, security and orderly conduct of the facility staff or other detainees, or if the document or other evidence is otherwise protected from disclosure.
- 16. If a detainee is found not guilty at any stage of the disciplinary process, the incident records shall not be placed or retained in the detainee’s file, even if these records are retained elsewhere for statistical or historical purposes.
- 17. Detainees shall be allowed to appeal disciplinary decisions through a formal grievance system. No staff member shall harass, discipline, punish or otherwise retaliate against any detainee for filing a complaint or grievance.
- 18. Detainees shall be afforded rights including, but not limited to, the following: the right to protection from abuse; the right to freedom from discrimination; the right to pursue a grievance;

the right to correspond with persons or organizations; and the right to due process.

- 19. The applicable content and procedures in this standard shall be communicated to the detainee in a language or manner the detainee can understand.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard replaces “Disciplinary Policy” dated 12/2/2008.

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-3A-01, 3A-02, 6B-05, 6C-01 through 6C-19.

V. Expected Practices

A. Guidelines

- 1. Detainees shall receive translation or interpretation services, including accommodation for the hearing impaired, throughout the investigative, disciplinary and appeal process.
- 2. Each facility holding ICE/ERO detainees in custody shall have a detainee disciplinary system with progressive levels of reviews, appeals, procedures and documentation procedures. Written disciplinary policy and procedures shall clearly define detainee rights and

responsibilities. The policy, procedures and rules shall be reviewed annually at a minimum.

3. Disciplinary action may not be capricious or retaliatory nor based on race, religion, national origin, gender, sexual orientation, disability or political beliefs.
4. Staff may not impose or allow imposition of the following sanctions: corporal punishment; deprivation of food services, to include use of Nutraloaf or "food loaf"; deprivation of clothing, bedding or items of personal hygiene; deprivation of correspondence privileges; deprivation of legal access and legal materials; or deprivation of indoor or outdoor recreation, unless such activity would create a documented unsafe condition within the facility. Any sanction imposed shall be approved by the facility administrator and reviewed by the Field Office Director.
5. The facility shall not hold a detainee accountable for his/her conduct if a medical authority finds him/her mentally incompetent. For purposes of these standards, a mentally incompetent individual is defined as an individual who is unable to appreciate the difference between appropriate and inappropriate behavior, or between "right" and "wrong." Such an individual is not capable of acting in accordance with those norms and therefore, cannot be held responsible for his/her "wrongful" actions
6. A person who cannot assist in his/her own defense because he/she lacks the ability to understand the nature of the disciplinary proceedings, as determined by a medical authority, shall be considered incompetent. Disciplinary proceedings against such a detainee shall be postponed until such time as the detainee is able to understand the nature of the disciplinary proceedings and to assist in his/her own defense. If the detainee's mental status does

not improve within a reasonable amount of time, the officer must find the detainee incompetent to assist in his/her own defense, and note such finding on the Incident Report.

B. Notice to Detainees

The detainee handbook, or supplement, issued to each detainee upon admittance, shall provide notice of the facility's rules of conduct and prohibited acts, the sanctions imposed for violations of the rules, the disciplinary severity scale, the disciplinary process and the procedure for appealing disciplinary findings. Detainees shall have the following rights and shall receive notice of them in the handbook:

1. The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage and harassment;
2. The right of freedom from discrimination based on race, religion, national origin, gender, sexual orientation, physical or mental ability, or political beliefs;
3. The right to pursue a grievance in accordance with procedures provided in the detainee handbook, without fear of retaliation;
4. The right to pursue a grievance in accordance with standard "6.2 Grievance System" and procedures provided in the detainee handbook.
5. The right to correspond with persons or organizations, consistent with safety, security and the orderly operation of the facility; and
6. The right to due process, including the prompt resolution of a disciplinary matter.

Copies of the rules of conduct, rights and disciplinary sanctions shall be provided to all detainees and posted in English, Spanish, and other languages spoken by significant segments of the population with limited English proficiency. Copies

to be provided and posted are as follows:

1. Disciplinary Severity Scale;
2. Prohibited Acts; and
3. Sanctions.

C. Disciplinary Severity Scale and Prohibited Acts

All facilities shall have graduated scales of offenses and disciplinary consequences as provided in this section.

Prohibited acts are divided into four categories: “greatest,” “high,” “moderate” and “low moderate.” The sanctions authorized for each category shall be imposed only if the detainee is found to have committed a prohibited act (see “Appendix 3.1.A: Offense Categories”).

1. Greatest Offenses

The IDP shall impose and execute at least one sanction in the A through E range. Additional sanctions (A through G) may be imposed and either executed or suspended, at the discretion of the panel. The IDP may impose and execute sanctions F and G only in conjunction with sanction A, B, C, D, and/or E.

2. High Offenses

The IDP shall impose and execute at least one sanction in the A through M range. Additional sanctions (A through M) may be imposed or may be suspended at the discretion of the panel.

3. High Moderate Offenses

The IDP shall impose at least one sanction in the A through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.

4. Low Moderate Offenses

The IDP shall impose at least one sanction in the E through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.

D. Incident Reports

Officers who witness a prohibited act, or have reason to suspect one has been committed, shall prepare and submit an Incident Report. All Incident Reports must state facts clearly, precisely and concisely, omitting no details that may prove significant. Reports also shall identify the officer(s), the detainee(s) and all witnesses to the incident.

Minor transgressions shall be settled informally and by mutual consent whenever possible. If however the officer involved thinks an informal resolution is inappropriate or unattainable, he or she shall prepare an Incident Report and submit it to the appropriate supervisor before the end of the assigned shift.

ICE/ERO pre-approval is required for use of ICE Incident Report forms in CDFs and IGSA facilities.

The Incident Report shall cite the relevant rule or standard without quoting it in its entirety. (For example, in the event of destruction of government property, the report shall cite, briefly, “Code 218— Destroying Government Property,” specify the exact manner in which the detainee is alleged to have violated the cited rule or standard, and include all relevant facts such as time, dates and places.)

If the officer observes anything unusual in the detainee’s behavior or demeanor, he/she shall so note in the report. The reporting officer shall also list all staff, contract officers, and/or detainee witnesses to the incident and the disposition of any physical evidence (e.g., weapons, property, etc.) relating to the incident. The reporting officer shall

sign the report and include title, date and time the report was signed. The shift supervisor shall review all Incident Reports before going off duty.

E. Investigations

IGSAs shall have procedures in place to ensure that all Incident Reports are investigated within 24 hours of the incident.

The investigating officer must have supervisory rank or higher (unless prevented by personnel shortages) and shall have had no prior involvement in the incident, as either witness or officer at the scene. If an officer below supervisory rank conducts the investigation, the shift supervisor shall review his/her report(s) for accuracy and completeness and sign them.

The investigating officer shall:

1. Commence the investigation within 24 hours of receipt of the Incident Report.
2. Advise the detainee of his/her right to remain silent at every stage of the disciplinary process, and ensure that he/she has a complete listing of detainee rights.
3. Provide the detainee a copy of the Incident Report and notice of charges at least 24 hours before the start of any disciplinary proceedings.
4. Terminate the administrative investigation, if the incident is under investigation on different grounds (i.e., the prohibited act is under criminal investigation), unless and until the agency with primary jurisdiction concludes its investigation or indicates it shall not pursue the matter.

Contraband that may be evidence in connection with a violation of a criminal statute shall be preserved, inventoried, controlled and stored so as to maintain and document the chain of custody. Contraband shall be reported to the appropriate law enforcement authority for action

and possible seizure and prosecution. See “Preservation of Evidence” in standard “2.10 Searches of Detainees”

5. Advise the detainee in writing of the detainee’s right, if applicable, to an initial hearing before the Unit Disciplinary Committee (UDC) within 24 hours of his/her notification of charges.
6. Record personal observances and other potentially material information.
7. Prepare a factual report of the investigation, including the location or disposition of any physical evidence.
8. Forward to the UDC all reports relevant to the disciplinary hearing—but do not provide a copy to the detainee at this stage of the disciplinary process, except for a copy of the Incident Report as instructed in #4 above in this section of this standard.

F. Unit Disciplinary Committee (UDC)

All facilities shall establish an intermediate level of investigation/adjudication process to adjudicate low or moderate infractions. They shall also ensure that the detainee is afforded all the UDC rights listed below.

The UDC administering unit discipline shall comprise up to three members, at least one of whom is a supervisor. The UDC shall not include the reporting officer, the investigating officer, or an officer who witnessed or was directly involved in the incident, except in the unlikely event that every available officer witnessed or was directly involved in the incident.

The UDC shall conduct hearings and, to the best extent possible, shall informally resolve cases involving high moderate or low moderate charges in accordance with the list of charges and related sanctions noted as “Appendix 3.1.A: Offense

Categories.” Unresolved cases and cases involving serious charges are forwarded to the institution disciplinary panel.

The UDC shall have authority to:

1. conduct hearings and resolve incidents involving high moderate or low moderate charges;
2. consider written reports, statements and physical evidence;
3. hear pleadings on the part of the detainee;
4. make findings that a detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence; and
5. impose minor sanctions “E” through “M” in accordance with the table of prohibited acts and associated sanctions later in this document.

The detainee in UDC proceedings shall have the right to:

1. remain silent at any stage of the disciplinary process;
2. due process, which includes:
 - a. attending the entire hearing (excluding committee deliberations);
 - b. waiving the right to appear; or
 - c. having a UDC hearing within 24 hours after the conclusion of the investigation.

If security considerations prevent detainee attendance, the committee must document the security considerations and, to the extent possible, facilitate the detainee’s participation in the process via telephonic testimony, document submission, written statements or questions to be asked of witnesses;

3. Present statements and evidence, including witness testimony on his/her own behalf; and

4. Appeal the committee’s determination through the detainee grievance process.

The UDC shall:

1. advise the detainee of his/her rights at the hearing;
2. refer to the IDP any incident involving a serious violation associated with an A-through-D-range sanction. This includes code violations in the “greatest” and “high” categories (100s and 200s);
3. serve the detainee with:
 - a. a copy of the UDC decision which must contain the reason for the disposition and sanctions imposed; or
 - b. written notification of charges and hearing before the IDP; and
4. if the detainee’s case is being referred to the IDP, advise the detainee, in writing, of:
 - a. The right to call witnesses and present evidence before the IDP, and
 - b. The right to a staff representative before the IDP.

G. Staff Representation for the IDP

The facility administrator shall upon the detainee’s request, assign a staff representative to help prepare a defense prior to the commencement of the IDP. This help shall be automatically provided for detainees who are illiterate, have limited English-language skills, or who are without means of collecting and presenting essential evidence. Detainees shall also have the option of receiving assistance from another detainee of their selection rather than a staff representative, subject to approval from the facility administrator.

1. *A staff representative must be a full-time employee.*

2. *Because of the potential conflict of interest, the facility administrator, members of the IDP and of the UDC initially involved in the case, eyewitnesses, the reporting and investigating officers and anyone else with a stake in the outcome shall not act as staff representative.*
3. *The detainee may select his/her staff representative, barring those identified in paragraph 2 above.*
4. *The IDP shall arrange for the presence of the staff representative selected by the detainee. If that staff member declines or is unavailable, the detainee may:*
 - a. *select a different representative;*
 - b. *wait for the unavailable staff member to become available (within a reasonable period); or*
 - c. *proceed without a staff representative.*
5. *A staff member who declines to serve must state the reason on the staff representative form.*
6. *If several staff decline, the facility administrator shall assign one.*
7. *The staff representative shall be free to speak to witnesses and to present evidence on the detainee's behalf, including evidence of any mitigating circumstances. The staff representative must act in good faith on behalf of the charged detainee, and interview witnesses and obtain documentary evidence as requested by the detainee or as otherwise reasonably seen as relevant to the defense of the charges or in mitigation of the charges.*
8. *The IDP shall allow the staff representative enough time to speak with the detainee and interview witnesses prior to commencement of the proceeding. The IDP may grant a request for extension of time if required for an adequate*

defense.

9. *The IDP shall establish the reliability of information provided by a confidential source before considering it in the disciplinary proceedings.*
10. *The IDP may withhold the confidential source's identity from the staff representative. While the staff representative may challenge the substance of any confidential information the IDP discloses, he/she may not question its reliability (which is pre-established by the IDP).*
11. *In the event that a detainee cannot effectively present his/her own case, the facility administrator shall appoint a staff representative, even if not requested by the detainee.*

H. Institution Disciplinary Panel

All facilities that house ICE/ERO detainees shall have a disciplinary panel to adjudicate detainee Incident Reports. Only the disciplinary panel may place a detainee in disciplinary segregation.

The term "Institution Disciplinary Panel" or "IDP" refers either to a three-person panel appointed by the facility administrator, or a one-person disciplinary hearing officer, depending on the practice at the facility.

The panel may not include the reporting officer, the investigating officer, any member of the referring UDC, or anyone who witnessed or was directly involved in the incident. Exceptions may occur only if the number of officers required for the panel cannot be filled due their direct involvement in the incident.

The IDP shall have authority to:

1. *conduct hearings on all charges and allegations referred by the UDC;*
2. *call witnesses to testify;*

3. consider written reports, statements, physical evidence and oral testimony;
4. hear pleadings by detainee and staff representative;
5. make findings that the detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence; and
6. impose sanctions as listed and authorized in each category.

The detainee in IDP proceedings shall have the right to:

1. remain silent at any stage of the disciplinary process;
2. due process, which includes:
 - a. attending the entire hearing (excluding committee deliberations);
 - b. waiving the right to appear; or
 - c. having an IDP hearing within 24 hours after the conclusion of the investigation.

If security considerations prevent the detainee’s attendance, the committee must document the security considerations and, to the extent possible, facilitate the detainee’s participation in the process by telephonic testimony, the submission of documents, written statements or questions to be asked of witnesses;

3. present statements and evidence, including witness testimony, on his/her behalf; and
4. appeal the committee’s determination through the detainee grievance process.

The IDP shall:

1. verify that the detainee has been advised of and afforded his/her rights, as provided above in this

standard;

2. remind the detainee of his/her right to a staff representative, provide one if requested and verify that a staff representative has been assigned when a representative is requested;
3. advise the detainee of his/her right to waive the hearing and admit having committed the offense;
4. conduct the hearing on the first business day after receiving the UDC referral, unless the detainee waives the 24-hour notification provision and requests an immediate hearing. In cases where a hearing is delayed, the reason(s) must be documented (e.g., a continuing investigation of facts, unavailability of one or more essential witnesses, etc.) and approved by the facility administrator. If the detainee is being held in segregation, the delay shall not exceed 72 hours, barring an emergency;
5. prepare a written record of any hearing. This record must show that the detainee was advised of his/her rights. It must also document the evidence considered by the Panel and subsequent findings and the decision and sanctions imposed, along with a brief explanation;
6. forward the entire record to the facility administrator, who may (a) concur, (b) terminate the proceedings or (c) impose more severe or more lenient sanctions; and
7. serve the detainee with written notification of the decision, which must contain the reason for the decision.

I. Confidential Information

When a decision relies on information from a confidential source, the UDC or IDP shall disclose as much confidential information as may be disclosed without jeopardizing the safety and security of facility staff and other persons, and shall

include in the hearing record the factual basis for finding the information reliable.

J. Postponement of Disciplinary Proceedings

All facilities shall permit hearing postponements or continuances under certain circumstances.

Circumstances justifying the postponement or continuance of a hearing might include, but are not limited to: defense preparation, physical or mental illness, security, escape, disciplinary transfer or pending criminal prosecution.

An uncooperative detainee may also cause a delay in the proceedings, either because of inappropriate behavior during the hearing process or a refusal to participate in a productive manner.

K. Duration of Sanctions

The duration of sanctions shall be within established limits. Neither the panel recommending sanctions nor the facility administrator making the final decision shall impose sanctions arbitrarily, beyond these limits.

1. Sanctions range from the withholding of privilege(s) to segregation. Time in segregation or the withholding of privileges after a hearing shall generally not exceed 30 days per violation, except in extraordinary circumstances, such as violations of offenses 101 through 109 listed in the “Greatest” offense category in Appendix 3.1.A.
2. Time served in segregation pending the outcome of the proceedings may be credited to the number of days to be spent in the segregation unit after an adverse decision is announced.
3. The disciplinary report and accompanying documents are not placed in the file of a detainee who is found not guilty. The facility, however, may retain the material in its own files for

Institution statistical or historical purposes.

4. A detainee shall be removed from segregation if a health care professional concludes that continued segregation is detrimental to the detainee’s medical or mental health.

L. Documents

All documents relevant to the incident, subsequent investigation and hearing(s) shall be completed and distributed in accordance with facility procedures.

1. Incident Report/Notice of Charges

The officer shall prepare an Incident Report and submit it to the supervisor immediately after the incident takes place. If the incident is resolved informally, the officer shall so note on the original report, which shall then be forwarded to the Chief of Security.

If the UDC is to be involved, the supervisor shall serve the detainee with a copy of the Notice of Charges upon completion of the investigation, no less than 24 hours before the UDC hearing.

The UDC receives the original copy.

If the UDC hears the matter, the ranking member of that committee shall serve the detainee with a copy of the Incident Report/Notice of Charges indicating their decision. The UDC, upon conclusion of its proceedings, shall forward the entire record to either the Chief of Security or the IDP, as appropriate.

2. Investigation Report

The original shall be submitted to the UDC.

The detainee does not receive a copy.

3. UDC Report of Findings and Action

The original shall be served on the detainee after the committee issues its findings.

A copy shall be included in the detainee detention

file (guilty finding only).

4. Notice of IDP Hearing

The original shall be served on the detainee after the committee issues its findings.

A copy shall be included in the detainee detention file.

5. Detainee Rights at IDP Hearing

The original shall be served on the detainee after

the committee issues its findings.

A copy shall be included in the facility detention file.

6. IDP Report

The original shall be included in the detainee detention file.

A copy shall be provided to the detainee.

Appendix 3.1.A: Offense Categories

(conduct must be of the greatest severity; this charge is to be used only if another charge of greatest severity is not applicable)

I. "Greatest" Offense Category

A. Prohibited Acts

- 100 Killing
- 101 Assaulting any person (includes sexual assault)
- 102 Escape from escort; escape from a secure facility
- 103 Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of greatest severity [e.g., a riot or an escape]; otherwise the charge is classified as Code 218 or 321)
- 104 Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive, escape tool, device or ammunition
- 105 Rioting
- 106 Inciting others to riot
- 107 Hostage-taking
- 108 Assaulting a staff member or any law enforcement officer
- 109 Threatening a staff member or any law enforcement office with bodily harm
- *198 Interfering with a staff member in the performance of duties (conduct must be of the greatest severity; this charge is to be used only if another charge of greatest severity is not applicable)
- *199 Conduct that disrupts or interferes with the security or orderly running of the facility

B. Sanctions

1. Initiate criminal proceedings
2. Disciplinary transfer (recommend)
3. Disciplinary segregation (up to 60 days)
4. Make monetary restitution, if funds are available
5. Loss of privileges (e.g., commissary, vending machines, movies, recreation, etc.)

II. "High" Offense Category

A. Prohibited Acts

- 200 Escape from unescorted activities open or secure facility, proceeding without violence
- 201 Fighting, boxing, wrestling, sparring and any other form of physical encounter, including horseplay, that causes or could cause injury to another person, except when part of an approved recreational or athletic activity
- 202 Possession or introduction of an unauthorized tool
- 203 Loss, misplacement or damage of any restricted tool
- 204 Threatening another with bodily harm
- 205 Extortion, blackmail, protection and demanding or receiving money or anything of value in return for protection against others, avoiding bodily harm or avoiding a threat of being informed against
- 206 Engaging in sexual acts
- 207 Making sexual proposals or threats
- 208 Wearing a disguise or mask
- 209 Tampering with or blocking any lock device

- 210 *Adulterating of food or drink*
- 211 *Possessing, introducing, or using narcotics, narcotic paraphernalia or drugs not prescribed for the individual by the medical staff*
- 212 *Possessing an officer's or staff member's clothing*
- 213 *Engaging in or inciting a group demonstration*
- 214 *Encouraging others to participate in a work stoppage or to refuse to work*
- 215 *Refusing to provide a urine sample or otherwise cooperate in a drug test*
- 216 *Introducing alcohol into the facility*
- 217 *Giving or offering an official or staff member a bribe or anything of value*
- 218 *Giving money to, or receiving money from, any person for an illegal or prohibited purpose (e.g., introducing/conveying contraband)*
- 219 *Destroying, altering, or damaging property (government or another person's) worth more than \$100*
- 220 *Being found guilty of any combination of three or more high moderate or low moderate offenses within 90 days*
- 222 *Possessing or introducing an incendiary device (e.g., matches, lighter, etc.)*
- 223 *Engaging in any act that could endanger person(s) and/or property*
- *298 *Interfering with a staff member in the performance of duties (conduct must be of highest severity; this charge is to be used only when no other charge of highest severity is applicable)*

*299 *Conduct that disrupts or interferes with the security or orderly operation of the facility (conduct must be of highest severity; this charge is to be used only when no other charge of highest severity is applicable)*

B. Sanctions

1. *Initiate criminal proceedings*
2. *Disciplinary transfer (recommend)*
3. *Disciplinary segregation (up to 30 days)*
4. *Make monetary restitution, if funds are available*
5. *Loss of privileges (e.g., commissary, vending machines, movies, recreation, etc.)*
6. *Change housing*
7. *Remove from program and/or group activity*
8. *Loss of job*
9. *Impound and store detainee's personal property*
10. *Confiscate contraband*
11. *Restrict to housing unit*
12. *Warning*

III. "High Moderate" Offense Category

A. Prohibited Acts

- 300 *Indecent exposure*
- 301 *Stealing (theft)*
- 302 *Misusing authorized medication*
- 303 *Loss, misplacement or damage of a less restricted tool*
- 304 *Lending property or other item of value for profit/increased return*
- 305 *Possessing item(s) not authorized for receipt or retention and not issued through regular channels*
- 306 *Refusing to clean assigned living area*

- 307 Refusing to obey the order of a staff member or officer (may be categorized and charged as a greater or lesser offense, depending on the kind of disobedience: continuing to riot is Code 105—Rioting; continuing to fight Code 201—Fighting; refusing to provide a urine sample, Code 215—Refusing to provide a urine sample or otherwise cooperate in a drug test).
- 308 Insolence toward a staff member
- 309 Lying or providing false statement to staff
- 310 Counterfeiting, forging or other unauthorized reproduction of money proceedings or other official document or item (e.g., security document, identification card, etc.); may be categorized as greater or lesser offense, depending on the nature and purpose of the reproduction (e.g., counterfeiting release papers to effect escape—Code 102 or 200).
- 311 Participating in an unauthorized meeting or gathering
- 312 Being in an unauthorized area
- 313 Failing to stand count
- 314 Interfering with count
- 315 Making, possessing, or using intoxicant(s)
- 316 Refusing a breathalyzer test or other test of alcohol consumption
- 317 Gambling
- 318 Preparing or conducting a gambling pool
- 319 Possessing gambling paraphernalia
- 320 Unauthorized contact with the public
- 321 Giving money or another item of value to, or accepting money or another item of value from, anyone, including another detainee,

- without staff authorization
- 322 Destroying, altering, or damaging property (government or another person’s) worth more than \$100
- 323 Signing, preparing, circulating, or soliciting support for prohibited group petitions
- *398 Interfering with a staff member in the performance of duties (offense must be of high moderate severity; this charge to be used only when no other charge in this category is applicable)
- *399 Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of high moderate severity; this charge is to be used only when no other charge in this category is applicable)

NOTE: Any combination of high moderate and low moderate offenses during a 90-day period shall constitute a high offense.

B. Sanctions

1. Initiate criminal proceedings
2. Disciplinary transfer (recommend)
3. Disciplinary segregation (up to 72 hours)
4. Make monetary restitution, if funds are available
5. Loss of privileges (e.g. commissary, vending machines, movies, recreation, etc.)
6. Change housing
7. Remove from program and/or group activity
8. Loss of job
9. Impound and store detainee’s personal property
10. Confiscate contraband
11. Restrict to housing unit
12. Reprimand

13. *Warning*

IV. “Low Moderate” Offense Category

A. Prohibited Acts

- 400 *Possessing property belonging to another person*
- 401 *Possessing unauthorized clothing*
- 402 *Malingering; feigning illness*
- 403 *Smoking where prohibited*
- 404 *Using abusive or obscene language*
- 405 *Tattooing, body piercing or self-mutilation*
- 406 *Unauthorized use of mail or telephone (with restriction or temporary suspension of the abused privileges often the appropriate sanction)*
- 407 *Conduct with a visitor in violation of rules and regulations (with restriction or temporary suspension of visiting privileges often the appropriate sanction)*
- 408 *Conducting a business*
- 409 *Possessing money or currency, unless specifically authorized*
- 410 *Failing to follow safety or sanitation regulations*
- 411 *Unauthorized use of equipment or machinery*

412 *Using equipment or machinery contrary to posted safety standards*

413 *Being unsanitary or untidy; failing to keep self and living area in accordance with posted standards*

*498 *Interfering with a staff member in the performance of duties (offense must be of low moderate severity; this charge is to be used only when no other charge in this category is applicable)*

*499 *Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of low moderate severity; this charge is to be used only when no other charge in this category is applicable)*

B. Sanctions

1. *Loss of privileges, commissary, vending machines, movies, recreation, etc*
2. *Change housing*
3. *Remove from program and/or group activity*
4. *Loss of job*
5. *Impound and store detainee’s personal property*
6. *Confiscate contraband*
7. *Restrict to housing unit*
8. *Reprimand*
9. *Warning*

5.8 Voluntary Work Program

I. Purpose and Scope

This detention standard provides detainees opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of the safety, security and good order of the facility.

While not legally required to do so, ICE/ ERO affords working detainees basic Occupational Safety and Health Administration (OSHA) protections.

This detention standard applies to the following types of facilities housing ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined in standard “7.5 Definitions.”

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”).

1. Detainees may have opportunities to work and earn money while confined, subject to the

number of work opportunities available and within the constraints of the safety, security and good order of the facility.

2. Detainees shall be able to volunteer for work assignments but otherwise shall not be required to work, except to do personal housekeeping.
3. Essential operations and services shall be enhanced through detainee productivity.
4. The negative impact of confinement shall be reduced through decreased idleness, improved morale and fewer disciplinary incidents.
5. Detainee working conditions shall comply with all applicable federal, state and local work safety laws and regulations.
6. There shall be no discrimination regarding voluntary work program access based on any detainee’s race, religion, national origin, gender, sexual orientation or disability.
7. The applicable content and procedures in this standard shall be communicated to the detainee in a language or manner the detainee can understand.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard replaces “Voluntary Work Program” dated 12/2/2008.

This detention standard incorporates the requirements regarding detainees’ assigned to work

outside of a facility’s secure perimeter originally communicated via a memorandum to all Field Office Directors from the Acting Director of U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) (11/2/2004).

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-5C-06, 5C-08, 5C-11(M), 6B-02.

ICE/ERO *Performance-based National Detention Standards 2011*:

- “1.2 Environmental Health and Safety”; and
- “4.1 Food Service.”

V. Expected Practices

A. Voluntary Work Program

Detainees who are physically and mentally able to work shall be provided the opportunity to participate in a voluntary work program. The detainee’s classification level shall determine the type of work assignment for which he/she is eligible. Generally, high custody detainees shall not be given work opportunities outside their housing units/living areas. Non-dedicated IGSA’s will have discretion on whether or not they will allow detainees to participate in the voluntary work program.

B. Work Outside the Secure Perimeter

ICE detainees may not work outside the secure perimeter of non-dedicated IGSA facilities.

In SPCs, CDFs, and dedicated IGSA’s, low custody detainees may work outside the secure perimeter on facility grounds. They must be directly supervised at a ratio of no less than one staff member to four

detainees. The detainees shall be within sight and sound of that staff member at all times.

C. Personal Housekeeping Required

Work assignments are voluntary; however, all detainees are responsible for personal housekeeping.

Detainees are required to maintain their immediate living areas in a neat and orderly manner by:

1. *making their bunk beds daily;*
2. *stacking loose papers;*
3. *keeping the floor free of debris and dividers free of clutter; and*
4. *refraining from hanging/draping clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures or other furniture.*

D. Detainee Selection

The facility administrator shall develop site-specific rules for selecting work detail volunteers. These site-specific rules shall be recorded in a facility procedure that shall include a voluntary work program agreement. The voluntary work program agreement shall document the facility’s program and shall be in compliance with this detention standard.

The primary factors in hiring a detainee as a worker shall be his/her classification level and the specific requirements of the job.

1. *Staff shall present the detainee’s name to the shift supervisor or the requesting department head.*
2. *The shift supervisor or department head shall review the detainee’s classification and other relevant documents in the detainee’s detention file.*
3. *The shift supervisor or department head shall*

assess the detainee’s language skills because these skills affect the detainee’s ability to perform the specific requirements of the job under supervision. To the extent possible, work opportunities shall be provided to detainees who are able to communicate with supervising staff effectively and in a manner that does not compromise safety and security.

- 4. *Inquiries to staff about the detainee’s attitude and behavior may be used as a factor in the supervisor’s selection.*

Staff shall explain the rules and regulations as well as privileges relating to the detainee worker’s status. The detainee shall be required to sign a voluntary work program agreement before commencing each new assignment. Completed agreements shall be filed in the detainee’s detention file.

E. Special Details

Detainees may volunteer for temporary work details that occasionally arise. The work, which generally lasts from several hours to several days, may involve labor-intensive work.

F. Discrimination in Hiring Prohibited

Detainees shall not be denied voluntary work opportunities on the basis of such factors as a detainee’s race, religion, national origin, gender, sexual orientation or disability.

G. Physically and Mentally Challenged Detainees

While medical or mental health restrictions may prevent some physically or mentally challenged detainees from working, those with less severe disabilities shall have the opportunity to participate in the voluntary work program in appropriate work assignments.

- 1. The selecting official must consider the precise limitations of a disabled individual before rejecting that individual for selected work assignments.
- 2. Expediency or convenience is insufficient justification to reject or “pigeonhole” a detainee who, with reasonable accommodation, can perform essential functions of the work assignment.
- 3. In disputed cases, the selecting official shall consult medical personnel to ascertain the detainee’s suitability for a given project.

H. Hours of Work

Detainees who participate in the volunteer work program are required to work according to a schedule.

The normal scheduled workday for a detainee employed full time is a maximum of 8 hours. Detainees shall not be permitted to work in excess of 8 hours daily, 40 hours weekly.

Unexcused absences from work or unsatisfactory work performance may result in removal from the voluntary work program.

I. Number of Details in One Day

The facility administrator may restrict the number of work details permitted a detainee during one day.

In SPCs, CDFs, and dedicated IGSAs a detainee may participate in only one work detail per day.

J. Establishing Detainee Classification Level

If the facility cannot establish the classification level in which the detainee belongs, the detainee shall be ineligible for the voluntary work program.

K. Compensation

Detainees shall receive monetary compensation for

work completed in accordance with the facility’s standard policy.

The compensation is at least \$1.00 (USD) per day. The facility shall have an established system that ensures detainees receive the pay owed them before being transferred or released.

L. Removal of Detainee from Work Detail

A detainee may be removed from a work detail for such causes as:

1. unsatisfactory performance;
2. disruptive behavior, threats to security, etc.;
3. physical inability to perform the essential elements of the job due to a medical condition or lack of strength;
4. prevention of injuries to the detainee; and/or
5. a removal sanction imposed by the Institutional Disciplinary Panel for an infraction of a facility rule, regulation or policy.

When a detainee is removed from a work detail, the facility administrator shall place written documentation of the circumstances and reasons in the detainee detention file.

Detainees may file a grievance to the local Field Office Director or facility administrator if they believe they were unfairly removed from work, in accordance with standard “6.2 Grievance System.”

M. Detainee Responsibility

The facility administrator shall establish procedures for informing detainee volunteers about on-the-job responsibilities and reporting procedures.

The detainee is expected to be ready to report for work at the required time and may not leave an assignment without permission.

1. The detainee shall perform all assigned tasks diligently and conscientiously.

2. The detainee may not evade attendance and performance standards in assigned activities nor encourage others to do so.
3. The detainee shall exercise care in performing assigned work, using safety equipment and taking other precautions in accordance with the work supervisor’s instructions.
4. In the event of a work-related injury, the detainee shall notify the work supervisor, who shall immediately implement injury-response procedures.

N. Detainee Training and Safety

All detention facilities shall comply with all applicable health and safety regulations and standards.

The facility administrator shall ensure that all department heads, in collaboration with the facility’s safety/training officer, develop and institute appropriate training for all detainee workers.

1. The voluntary work program shall operate in compliance with the following codes and regulations:
 - a. Occupational Safety and Health Administration (OSHA) regulations;
 - b. National Fire Protection Association 101 Life Safety Code; and
 - c. International Council Codes (ICC).

Each facility administrator’s designee is responsible for providing access to complete and current versions of the documents listed above.

The facility administrator shall ensure that the facility operates in compliance with all applicable standards.

2. Upon a detainee’s assignment to a job or detail, the supervisor shall provide thorough instructions regarding safe work methods and, if

relevant, hazardous materials, including:

- a. safety features and practices demonstrated by the supervisor; and
- b. recognition of hazards in the workplace, including the purpose for protective devices and clothing provided, reporting deficiencies to their supervisors (staff and detainees who do not read nor understand English shall not be authorized to work with hazardous materials).

A detainee shall not undertake any assignment before signing a voluntary work program agreement that, among other things, confirms that the detainee has received and understood training from the supervisor about the work assignment.

The voluntary work program agreement, which each detainee is required to sign prior to commencing each new assignment, shall be placed in the detainee’s detention file.

- 3. For a food service assignment, medical staff, in conjunction with the U.S. Public Health Service, shall ensure that detainees are medically screened and certified before undertaking the assignment.
- 4. The facility shall provide detainees with safety equipment that meets OSHA and other standards

associated with the task performed.

- 5. The facility administrator shall ensure that the facility operates in compliance with all applicable standards.

O. Detainee Injury and Reporting Procedures

The facility administrator shall implement procedures for immediately and appropriately responding to on-the-job injuries, including immediate notification of ICE/ERO.

If a detainee is injured while performing his/her work assignment:

- 1. The work supervisor shall immediately notify facility medical staff. In the event the accident occurs in a facility that does not provide 24-hour medical care, the supervisor shall contact the on-call medical officer for instructions.
- 2. First aid shall be administered as necessary.
- 3. Medical staff shall determine what treatment is necessary and where that treatment shall take place.
- 4. The work supervisor shall complete a detainee accident report and submit it to the facility administrator for review and processing and file it in the detainee’s detention file and A-file.

7.5 Definitions

A-File, Alien File

The legal file maintained by DHS for each detainee. Contents include but are not limited to the detainee’s identification documents (passport, driver’s license, other identification cards, etc.), photographs, immigration history, prior criminal record if any, and all documents and transactions relating to the detainee’s immigration case.

ACA

American Correctional Association.

Administrative Health Authority

The administrative authority is responsible for all access to care, personnel, equipment and fiscal resources to support the delivery of health care services.

Administrative Segregation

A non-punitive form of separation from the general population used for administrative reasons. Administrative segregation is available only to ensure the safety of detainees or others, the protection of property, or the security or good order of the facility, as determined by a facility administrator or supervisor. Administrative segregation may be available, among other reasons, for detainees awaiting investigations or hearings for violations of facility rules, detainees scheduled for release, removal, or transfer within 24 hours, and, under more limited circumstances, detainees who require protective custody or separation from the general population for medical reasons.

Admission/Admissions Process

In-processing of newly arrived detainees, which includes an orientation to the policies, programs, rules and procedures of the facility. Classification, assignment of living quarters, various inspections,

medical screening and safeguarding of funds, valuables and other personal property is completed during this process.

Ambulatory Restraints

“Soft” or “hard” equipment used to restrict a detainee’s movement but leaving him or her able to eat, drink or attend to basic bodily functions without staff intervention.

Ammunition Control Officer (ACO)

An individual who has been designated in writing as the officer responsible for the physical and administrative control of ammunition in the authorizing official’s area of accountability.

Body-cavity Search

The visual inspection or physical probing of body openings (anus, vagina, ears, nose, mouth, etc) where weapons, drugs, or other contraband could be secreted. This is the most intrusive means of searching an individual, reserved for instances where other search techniques have been considered but rejected as ineffective under the particular circumstances of the case. Body-cavity search procedures govern physical probes, but not visual inspections.

For example, the procedures would not be appropriate for a visual inspection of the inside of the mouth, nose, or ears, unless contraband is found during the course of that inspection. Body-cavity procedures apply whenever contraband is found, because retrieving/seizing the item will involve physical entry into or probing within the cavity (in this example, the mouth, nose, or ear).

Caustic

Capable of burning, corroding, eroding or destroying by chemical action.

Census Check

See Informal Count.

Chain of Command

Order of authority (rank); executive, senior management, senior staff, etc. The position titles may vary according to the type of facility (SPC, CDF, or IGSA) and local facility titles. The on-site order of authority at a detention facility descends from the facility administrator to assistant or associate facility administrators to department heads to shift supervisors and other supervisors. Similarly, the ICE/ERO chain-of-command at a detention facility descends from the officer-in-charge (OIC) to the associate OIC to the chief detention enforcement officer/Chief of Security, detention operations supervisor, etc.

Chemical

A substance with a distinct molecular composition produced by or used in a chemical process.

Chief of Security

A generic term for the department head in charge of a detention facility’s security employees and operations. The position titles may vary according to the type of facility (SPC, CDF, or IGSA) and local facility titles. Ordinarily, a Chief of Security (chief detention enforcement agent, captain, etc.) is organizationally directly under an assistant or associate facility administrator.

Chronic disease

An illness or condition that affects an individual’s well being for an extended interval, usually at least six months, and generally is not curable but can be managed to provide optimum functioning within any limitations the condition imposes on the individual.

Chronic disease program (care clinic)

Incorporates a treatment plan and regular clinic visits. The clinician monitors the patient’s progress during clinic visits and, when necessary changes the

treatment. The program also includes patient education for symptom management.

Class R (Restricted) Tools

Devices to which detainees are forbidden access except in the presence and constant supervision of staff for reasons of safety or security. Class R includes devices that can be used to manufacture or serve as weapons capable of doing serious bodily harm or structural damage to the facility. All portable power tools and accessories are in this category. Class R also includes ladders and other such items that are not inherently dangerous but could prove useful in unauthorized activities, such as escape attempts.

Classification

A process used to make housing and program assignments by assessing detainees on the basis of objective information about past behavior, criminal records, special needs, etc.

Clinical Director (CD)

A designated individual licensed to practice medicine and provide health services with final responsibility for decisions related to medical judgments. A CD and CMA are equivalent positions.

Clinical Medical Authority (CMA)

The medical authority is responsible for the delivery of all health care services to the detainee population. These services include, but are not limited to, medical, nursing, dental, mental health and nutritional services. A CD and CMA are equivalent positions.

Combustible Liquid

A substance with a flash point at or above 100° Fahrenheit.

Commissary

An area or system where detainees may purchase approved items.

Contact Visit

A meeting between detainee and another person authorized to take place in an area free of obstacles or barriers that prevent physical contact.

Container

Any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or other vessel holding a hazardous chemical; does not include pipes or piping systems.

Contraband

Any unauthorized item in the facility: illegal, prohibited by facility rules, or otherwise posing a threat to the security or orderly operation of the facility. This includes unauthorized funds.

Contract Detention Facility (CDF)

A facility that provides detention services under a competitively bid contract awarded by the ICE.

Control Office

An officer who directs security activities from the Control Center.

Count Slip

Documentation of the number of detainees confirmed present during a population count in a specific area, signed by the officers involved in the count.

Correspondence

Letters, postcards and other forms of written material not classified as packages or publications. Large envelopes containing papers qualify as correspondence, but boxes, sacks and other shipping cartons do not. Books, magazines, newspapers and other incoming printed matter are not "correspondence."

Criminal Alien

A foreign national convicted of one or more crimes.

Dedicated IGSA Facility (Dedicated IGSA)

An IGSA facility that solely houses ICE detainees. Also see "IGSA FACILITY" and "INTERGOVERNMENTAL SERVICE AGREEMENT."

Detainee Handbook

The policies and procedures governing detainee life in the facility: daily operations, rules of conduct, sanctions for rule violations, recreation and other programs, services, etc.; defined in writing and provided to each detainee upon admission to the facility.

Detention File

Contents include receipts for funds, valuables and other personal property; documentation of disciplinary action; reports on detainee behavior; detainee's written requests, complaints and other communications; official responses to detainee communications; records from Special Management Unit, etc.

Dietician

A professional trained in foods and the management of diets (dietetics) who is credentialed by the Commission on Dietetic Registration of the American Dietetic Association, or who has the documented equivalent in education, training, or experience, with evidence of relevant continuing education.

Disciplinary Hearing

Non-judicial administrative procedure to determine whether substantial evidence supports finding a detainee guilty of a rule violation.

Disciplinary Committee

One or more impartial staff members who conduct

and/or oversee a disciplinary hearing. A lower-level committee (Unit Disciplinary Committee) investigates a formal Incident Report and may impose minor sanctions or refer the matter to a higher-level disciplinary committee. A higher-level committee (Institution Disciplinary Panel) conducts formal hearings on Incident Reports referred from the lower level committee and may impose higher level sanctions for higher level prohibited acts. Also see Institution Disciplinary Panel.

Disciplinary Segregation

A punitive form of separation from the general population used for disciplinary reasons. Disciplinary segregation is available only after a finding by a disciplinary hearing panel that the detainee is guilty of a serious prohibited act or rule violation.

Dry Cell

A cell or room without running water where a detainee can be closely observed by staff until the detainee has voided or passed contraband or until sufficient time has elapsed to preclude the possibility that the detainee is concealing contraband. Dry cells may be used when there is reasonable suspicion that a detainee has ingested contraband or concealed contraband in a body cavity.

Emergency Changes

Measures immediately necessary to maintain security or to protect the health and safety of staff and detainees.

Exposure/Exposed

Subjected or potentially subjected to a hazardous substance by any means (inhalation, ingestion, skin contact, absorption, etc.)

Face-to-photo Count

A process that verifies identity of each detainee by

comparing every person present with the photographic likeness on his/her housing card.

Facility Administrator

A generic term for the chief executive officer of a detention facility. The formal title may vary (warden, Officer In Charge, sheriff, jail administrator, etc.).

Field Office Directory (FOD)

Individual with chief responsibility for facilities in his assigned geographic area.

Firearms Control Officer (FCO)

Individual designated responsible for the physical and administrative control of all firearms under the jurisdiction of the authorizing official.

Flammability Hazard

Has a flash point below 200 degrees Fahrenheit, closed cup, or is subject to spontaneous heating.

Flammable Liquid

A substance with a flash point below 100 degrees Fahrenheit (37.8 Centigrade).

Flash Point

The minimum temperature at which the vapor of a combustible liquid can form an ignitable mixture with air.

Food Service Administrator (FSA)

The official responsible for planning, controlling, directing and evaluating Food Service Department operations.

Formal Count

When the detainee population is assembled at specific times for attendance check, conducted in accordance with written procedures.

Four/Five-point Restraint

A restraint system that confines an individual to a

bed or bunk in either a supine or prone position. Ordered by the facility administrator when a detainee’s unacceptable behavior appears likely to continue risking injury to self or others.

Funds

Cash, checks, money orders and other negotiable instruments.

General Correspondence

All correspondence other than “special correspondence.”

General Population

Detainees whose housing and activities are not specially restricted. The term is ordinarily used to differentiate detainees in the “general population” from those in Special Housing Units.

Grievance

A complaint based on a circumstance or incident perceived as unjust.

Hard Contraband

Any item that poses a serious threat to the life, safety or security of the facility detainees or staff.

Health Assessment

The process whereby an individual’s health status is evaluated. This process will address the patient’s physical, dental and mental health appropriate to the patient’s condition and will include, as determined by the health care provider, questioning the patient about symptoms, a physical examination appropriate to the complaint and, as appropriate, review of screening information, collection of additional information relating to mental, dental and medical health issues, immunization histories, laboratory and diagnostic tests, other examinations, review of results, initiation of therapy and development of a treatment plan.

Health Authority

The health services administrator (HSA), clinical director (CD), or agency responsible for the provision of health care services at a facility or system of facilities. The responsible physician may be the health authority. Health authority may also be referred to as the medical department.

Health Care Practitioner

Defined as an individual who is licensed, certified, or credentialed by a state, territory or other appropriate body to provide health care services within the scope and skills of the respective health care profession.

Health Hazard

Includes carcinogens, toxic agents, reproductive toxins, irritants, corrosives, sanitizers, hepatotoxins, nephrotoxins, neurotoxins and other agents that act on the hemopoietic system or damage the lungs, skin, eyes, or mucous membranes.

Health Screening

A system for preliminary screening of the physical and mental condition of individual detainees upon arrival at the facility; conducted by health care personnel or by a specially health trained officer. The combination of structured inquiry and observation is designed to obtain immediate treatment for new arrivals who are in need of emergency health care, identify and meet ongoing current health needs, and isolate those with communicable diseases.

Hold Room

A secure area used for temporary confinement of detainees before in-processing, institutional appointments (court, medical), release, transfer to another facility, or deportation-related transportation.

Hunger Strike

A voluntary fast undertaken as a means of protest or

manipulation. Whether or not a detainee actually declares that he or she is on a hunger strike, staff are required to refer any detainee who is observed to not have eaten for 72 hours for medical evaluation and monitoring.

IGSA Facility (IGSA)

A state or local government facility used by ERO through an Intergovernmental Service Agreement. Also see “INTERGOVERNMENTAL SERVICE AGREEMENT.”

Illegal Contraband

Any item prohibited by law, the possession of which constitutes grounds for felony or misdemeanor charges.

Indigent

Without funds, or with only nominal funds. Ordinarily, a detainee is considered “indigent” if he or she has less than \$15.00 in his or her account.

Informal grievance

An oral complaint or concern received from a detainee. Informal grievances may be handled at the lowest level in the organization possible to effectively resolve the complaint with no written response.

Informal Count

Population count conducted according to no fixed schedule, when detainees are working, engaged in other programs, or involved in recreational activities. Unless a detainee is missing, these counts are not reported; also called “census check” or “irregular count.”

Informal Resolution

Brings closure to a complaint or issue of concern to a detainee, satisfactory to the detainee and staff member involved; does not require filing of a written grievance.

Informed Consent

An agreement by a patient to a treatment, examination, or procedure after the patient receives the material facts about the nature, consequences, and risks of the proposed treatment, examination or procedure; the alternatives to it; and the prognosis if the proposed action is not undertaken.

In-processing

Administrative processing of a detainee arriving at a detention facility (See “Admissions”).

Institution Disciplinary Panel (IDP)

Review board responsible for conducting disciplinary hearings and imposing sanctions for cases of detainee misconduct referred for disposition following the hearing. The IDP usually comprises a hearing officer and representatives of different departments in the facility.

Intergovernmental Service Agreement

A cooperative agreement between ICE and any state, territory or political subdivision for the construction, renovation or acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services. ICE may enter into an IGSA with any such unit of government guaranteeing to provide bed space for ICE detainees, and to provide the clothing, medical care, food and drink, security and other services specified in the ICE/ERO detention standards; facilities providing such services are referred to as “IGSA facilities.”

Investigating Officer

An individual of supervisory or higher rank who conducts an investigation of alleged misconduct and was not involved in the incident; usually a supervisory detention enforcement officer or shift supervisor.

Irregular Count

See Informal Count.

Least Intrusive

In the context of a search, terminology used to refer to alternative means of finding contraband, such as questions, metal detectors, pat down searches and boss chairs, prior to conducting a strip search.

Legal Assistant

An individual (other than an interpreter) who, working under the direction and supervision of an attorney or other legal representative, assists with group presentations and in representing individual detainees. Legal assistants may interview detainees, assist detainees in completing forms and deliver papers to detainees without the supervisory attorney being present.

Legal Correspondence

See “special correspondence.”

Legal File

See A-File.

Legal Representative

An attorney or other person representing another in a matter of law, including law students, law graduates not yet admitted to the bar; “reputable individuals”; accredited representatives; accredited officials and attorneys outside the United States (see 8 CFR § 292.1, “Representation and Appearances”).

Leisure-time Activities

Activities which are designed to provide detainees with recreational opportunities both inside and outside the living area, e.g., soccer, basketball, chess, checkers, television.

Life-sustaining Procedure (Life Support)

A medical intervention or procedure that uses artificial means to sustain a vital function.

Mail Inspection

Examination of incoming and outgoing letters, packages, etc., for contraband, including cash, checks and money orders.

Master Count

Total number of detainees housed at a facility.

Material Safety Data Sheet (MSDS)

Basic information about a hazardous chemical, prepared and issued by the manufacturer, in accordance with Occupational Safety and Health Administration regulations (see 29 CFR 1910.1200; see also OSHA Form 174); among other things, specifies precautions for normal use, handling, storage, disposal and spill cleanup.

Medical Classification System

A system by which a detainee’s medical and mental health conditions and needs are assessed to allow for appropriate placement in a facility with the resources necessary to provide appropriate level of care to meet those needs.

Medical Discharge Plan

The discharge plan includes: admission diagnosis; discharge diagnosis; brief medical history including the chief complaint and any essential physical findings discovered; all diagnostic test (e.g., x-rays, lab results, ECG’s, etc) results; list of any medications prescribed; a brief summary of care provided, the detainee’s response to treatment, medical complications encountered, any outside health care referrals that may have interrupted the infirmary period or that be pending; and continuity of care plan.

Medical Personnel

Includes all qualified health care professionals as well as administrative and support staff (e.g. health record administrators, laboratory technicians, nursing and medical assistants, clerical workers).

Mental Health Provider

Psychiatrist, clinical or counseling psychologist, physician, psychiatric nurse, clinical social worker or any other mental health professional who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for the mental health needs of patients. .

Messenger

A person (neither a legal representative nor a legal assistant) whose purpose is to deliver or convey documents, forms, etc., to and from the detainee; not afforded the visitation privileges of legal representatives and legal assistants.

Minor

A juvenile; a person under the age of 18.

Mogul keys

Key and knob operated deadlocking latch/ deadbolt for use in detention institutions as well as commercial, government and industrial buildings for utmost physical security. The large-scale design accommodates an oversized latch and deadbolt plus mogul key cylinder. These institutional grade construction features and tamper resistant fittings afford exceptional structural strength to impede forced and surreptitious entry.

National Commission on Correctional Health Care (NCCHC)

Establishes the standards for health service in correctional facilities on which accreditation is based.

National Fire Protection Association

Principal source of fire protection standards and codes.

NCCHC

National Commission on Correctional Health care.

Non-Contact Visit

Visitation with a barrier preventing physical contact

between the detainee and his or her visitors.

Non-dedicated IGSA Facility (Non-dedicated IGSA)

An IGSA facility that houses ICE detainees as well as other inmate populations in a shared use facility. Also see “IGSA FACILITY” and “INTERGOVERNMENTAL SERVICE AGREEMENT.”

Non-Medical Emergency Escorted Trip

Authorized detainee visit to a critically ill member of his/her immediate family, or to attend the funeral of a member of his/her immediate family. “Immediate family” member refers to a parent (including stepparent and foster parent), child, spouse, sister, or brother of the detainee.

Non-merit Factor

Any characteristic or factor immaterial to a detainee’s mental or physical ability to perform a given assignment.

Non-security Key

A key which if duplicated by unauthorized persons and/or lost, would not constitute an emergency requiring urgent action; not critical to facility safety and security.

Out Count

Detainees temporarily away from the facility, but accounted for by the facility and included in the master count.

Paracentric Keys

Keys designed to open a paracentric lock. It is distinguishable by the contorted shape of its blade, which protrudes past the centre vertical line of the key barrel. Instead of the wards on the outer face of the lock simply protruding into the shape of the key along the spine, the wards protrude into the shape of the key along the entire width of the key, including along the length of the teeth.

Pat-down Search

Relies on the sensitivity of the officer’s hands as they tap or run over the detainee’s clothed body; may require the detainee to reveal pocket contents. The least intrusive body search.

Physical Examination

A thorough evaluation of an individual’s physical condition and medical history conducted by or under the supervision of a licensed medical professional acting within the scope of his or her practice.

Plan of Action

Describes steps the facility will take to convert a condition that has caused a determination of noncompliance with a standard.

Post Orders

Written orders that specify the duties of each position, hour-by-hour, and the procedures the post officer will follow in carrying out those duties.

Progressive Restraints

Control the detainee in the least restrictive manner required, until and unless the detainee’s behavior warrants stronger and more secure means of inhibiting movement.

Protective Custody (PC)

Administrative segregation for the detainee’s own safety.

Qualified health care professionals

Include physicians, physicians assistants, nurses, nurse practitioners, dentists, mental health professionals and others who by virtue of their education, credentials and experience are permitted by law and within their scope of practice to evaluate and care for patients.

Reasonable Suspicion

Not intuition, but specific, articulable facts that would cause a reasonable law enforcement officer to suspect that a particular person is concealing a weapon, contraband, or evidence of a crime.

Religious Practices

Worship, observances, services, meetings, ceremonies, etc., associated with a particular faith; access to religious publications, religious symbolic items, religious counseling and religious study classes; and adherence to dietary rules and restrictions.

Sally Port

An enclosure situated in the perimeter wall or fence surrounding the facility, containing double gates or doors, of which one cannot open until the other has closed, to prevent a breach in the perimeter security; handles pedestrian and/or vehicular traffic.

Sanitation

The creation and maintenance of hygienic conditions; in the context of food, involves handling, preparing, and storing items in a clean environment, eliminating sources of contamination.

Satellite Feeding

Food served and consumed in a location other than where prepared.

Security Key

A key which if duplicated by unauthorized persons and/or lost, would jeopardize life, safety, property or security, or would facilitate escape.

Segregation

Confinement in an individual cell isolated from the general population; for administrative, disciplinary, or protective reasons.

Service Processing Center (SPC)

A detention facility the primary operator and

controlling party of which is ICE.

Shift Supervisor

A generic term for the detention security supervisor in charge of operations during a shift. The position titles may vary according to the type of facility (SPC, CDF, or IGSA) and local facility titles. Ordinarily, a shift supervisor (detention operations supervisor, lieutenant, etc.) is, organizationally, directly under the Chief of Security (chief detention enforcement agent, captain, etc.).

Soft Contraband

Any unauthorized item that does not constitute hard contraband, i.e., does not pose a serious threat to human safety or facility security; includes that quantity of an item possessed in an amount exceeding the established limit.

Special Correspondence or Legal Mail

Detainees' written communications to or from any of the following:

- a. private attorneys and other legal representatives;
- b. government attorneys;
- c. judges and courts;
- d. embassies and consulates;
- e. the president and vice president of the United States;
- f. members of Congress;
- g. the Department of Justice (including the DOJ Office of the Inspector General);
- h. the Department of Homeland Security (including U.S. Immigration and Customs Enforcement, ICE Health Services Corps, the Office of Enforcement and Removal Operations, the DHS Office for Civil Rights and Civil Liberties, and the DHS Office of the Inspector General);
- i. outside health care professionals;

j. administrators of grievance systems; and

k. representatives of the news media.

Special Management Unit (SMU)

A housing unit for detainees in administrative or disciplinary segregation.

Special Needs Detainee

A detainee whose mental and/or physical condition requires different accommodations or arrangements than a general population detainee would receive. Special needs detainees include but are not limited to those who are emotionally disturbed, developmentally disabled, mentally ill, physically handicapped, chronically ill, disabled, or infirm and the drug or alcohol addicted.

Strip Search

A visual inspection of all body surfaces and body cavities.

Terminally Ill Detainee

A detainee whose physical condition has deteriorated to the point where the prognosis is less than a year to live.

TJC

The Joint Commission [formerly the Joint Commission on Accreditation of Health care Organizations (JCAHO)]

An independent, not-for-profit organization that evaluates and accredits more than 15,000 health care organizations and programs in the United States. TJC is the Nation's predominant standards-setting and accrediting body in health care.

Toxic

Poisonous; capable of causing injury or death.

Trained Investigators

A person who has been trained in investigative techniques to include interview techniques for

victims and proper procedures for collecting and storing evidence.

Training

An organized, planned and evaluated activity designed to achieve specific learning objectives and enhance personnel performance. Training may occur on site, at an academy or training center, an institution of higher learning, professional meetings, or through contract service or closely supervised on-the-job training. Training programs usually include requirements for completion, attendance records and certification of completion. Meetings of professional associations are considered training where there is clear evidence of the direct bearing on job performance. In all cases, the activity must be part of an overall training program.

Training Coordinator

A person responsible for ensuring all training requirements are met and documented. This person will often develop and conduct training.

Transgender

Transgender people are those whose gender identity or expression is different from their assigned sex at birth.

Unencumbered Space

Open, usable space measuring at least seven feet in at least one dimension, free of plumbing fixtures, desk, locker, bed and other furniture and fixtures (measured in operational position).

Unauthorized Funds

Negotiable instruments (checks, money orders, etc.) or cash in a detainee’s possession exceeding the facility-established limit.

Unauthorized Property

Not inherently illegal, but against the facility’s written rules.

Unit Disciplinary Committee

See Disciplinary Committee.

Volunteer Group

Individuals who collectively donate time and effort to enhance the activities and programs offered to detainees; selected on basis of personal qualities and skills (recreation, counseling, education, religion, etc.).

Work Assignment

Carpentry, plumbing, food service and other operational activities included in the facility’s Voluntary Work Program, for which a detainee may volunteer.

Exhibit M



**Operations Manual ICE Performance Based National
Detention Standards
(PBNDS)**

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ICE/DRO DETENTION STANDARD

ENVIRONMENTAL HEALTH AND SAFETY

I. PURPOSE AND SCOPE. This Detention Standard protects detainees, staff, volunteers, and contractors from injury and illness by maintaining high facility standards of cleanliness and sanitation, safe work practices, and control of hazardous substances and equipment.

It applies to the following types of facilities housing DRO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by DRO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs and CDFs. IGSA's must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document are defined in the separate **Definitions** Standard.

II. EXPECTED OUTCOMES. The expected outcomes of this Detention Standard are:

1. Facility cleanliness and sanitation will be maintained at the highest level.
2. Compliance with all applicable safety and sanitation laws will be ensured by documented internal and external inspections and corrective action when indicated.
3. Compliance with all applicable fire safety codes and fire safety performance requirements for the facility furnishings will be ensured.
4. Flammable, poisonous, toxic, and caustic materials will be controlled and used in a safe manner.
5. Compliance with fire prevention regulations, inspection requirements, and practices, including periodic fire drills, will ensure the safety of detainees, staff, and visitors.
6. Staff will be knowledgeable about procedures and responsibilities during emergency situations, including those that require evacuation, in accordance with a written plan and at least annual training.
7. The facility will have a plan for immediate release of detainees from locked areas and provisions for a back-up system
8. A sufficient number of properly positioned emergency exits that are clear from obstruction will be distinctly and permanently marked.
9. Preventive maintenance and regular inspections will be performed to ensure timely emergency repairs or replacement to prevent dangerous and life-threatening situations.

10. Potential disease transfer will be minimized by the proper sanitization of barbering equipment and supplies.
11. Pests and vermin will be controlled and eliminated.
12. Safe potable water will be available throughout the facility.
13. Emergency lighting and life-sustaining equipment will be maintained and periodically tested.
14. Disposal of garbage and hazardous waste will be in compliance with applicable government regulations.
15. The applicable content and information in this standard will be communicated in a language or manner which the detainee can understand.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Environmental Health and Safety** dated 9/20/2000.

IV. REFERENCES

- American Correctional Association 4th Edition, Standards for Adult Detention Facilities: 4-ALDF-1A-01, 1A-02, 1A-03, 1A-07, 1A-14, 1A-15, 1A-16, 1A-17, 1A-18, 1A-19, 1A-20, 1C-01, 1C-02, 1C-03, 1C-04, 1C-05, 1C-07, 1C-08, 1C-09, 1C-10, 1C-11, 1C-12, 1C-13, 1C-14, 1C-15, 4B-07, 4C-18.
- Occupational Safety and Health Administration (OSHA) Regulations
- NFPA Standards
- US Public Health Service Report on Carcinogens

V. EXPECTED PRACTICES – GENERAL ENVIRONMENTAL HEALTH AND SAFETY

A. General Environmental Health

Environmental health conditions shall be maintained at a level that meets recognized standards of hygiene, including those from the:

- American Correctional Association,
- Occupational Safety and Health Administration,
- Environmental Protection Agency,
- Food and Drug Administration,
- National Fire Protection Association's Life Safety Code, and
- National Center for Disease Control and Prevention.

The Health Services Department or IGSA equivalent shall assist in the identification and correction of conditions that could adversely impact the health of detainees, employees, and visitors. The sanitarian consultant is responsible for developing and implementing

policies, procedures, and guidelines for the environmental health program that are intended to evaluate and eliminate or control as necessary, sources of injuries and modes of transmission of agents or vectors of communicable diseases.

The consultant shall:

- Conduct special investigations and comprehensive surveys of environmental health conditions, and
- Provide advisory, consultative, inspection, and training services regarding environmental health conditions.

The medical facility's Health Services Administrator is responsible for:

- Implementing a program that assists in maintaining a high level of environmental sanitation, and
- Providing recommendations to the facility administrator concerning environmental health conditions, in consultation with the sanitarian consultant.

B. Staff and Detainee Safety

The facility administrator shall ensure that adequate provisions are made for staff and detainee safety in accordance with these Detention Standards and applicable law. The Detention Standard on **Staff Training** further addresses employee training related issues. The Detention Standard on **Volunteer Work Program** addresses detainee training issues for workers. Detainees will receive safety instruction where necessary for living area-related assignments such as working with cleaning products to clean general use areas.

Detainee living area safety will be emphasized to staff and detainees to include providing, as noted in the standards, a housekeeping plan. Bed rails are not common in detention settings except for medical housing units because of the potential safety risk they pose. When there are safety concerns with a detainee sleeping in a top bunk that is not along a wall and has no bed rail, accommodations will be made to ensure safety. In locations where ladders are not available, accommodations for detainees, such as the use of bottom bunks or the addition of a ladder or step, will be made on a case by case basis. Detainees who have medical or physical problems that sleeping on a top bunk will aggravate will be referred to the medical unit for consideration of a lower bunk permit.

C. General Housekeeping

The facility administrator shall ensure that staff and detainees maintain a high standard of facility sanitation and general cleanliness. When possible, the use of non-toxic cleaning supplies is recommended.

1. All horizontal surfaces shall be damp-dusted daily with an approved germicidal solution used according to the manufacturer's directions.
2. Windows, window frames, and windowsills shall be cleaned on a regular

schedule, but do not require daily cleaning.

3. Furniture and fixtures shall be cleaned daily.
4. Floors shall be mopped daily and when soiled using the double-bucket mopping technique, and with a hospital disinfectant-detergent solution mixed according to the manufacturers directions.
5. A clean mop head shall be used each time the floors are mopped.
6. Waste containers shall be non-porous and lined with plastic bags and the liner shall be changed daily.
7. The container itself shall be washed at least weekly, or as needed when it becomes soiled.
8. Cubicle curtains shall be laundered monthly or during terminal cleaning following treatment of an infectious patient.

D. Pests and Vermin

The facility administrator shall contract with licensed pest-control professionals to perform monthly inspections to identify and eradicate rodents, insects, and vermin. The contract shall include a preventive spraying program for indigenous insects and a provision for callback services as necessary.

E. Certification of Facility Water Supply

At least annually, a state laboratory shall test samples of drinking and wastewater to ensure compliance with applicable standards. A copy of the testing and safety certification shall be maintained on-site.

F. Emergency Electrical Power Generator

At least every two weeks, emergency power generators shall be tested for one hour, and the oil, water, hoses and belts of these generators shall be inspected for mechanical readiness to perform in an emergency situation .

Power generators are inspected weekly and load tested quarterly at a minimum, or in accordance with manufacturer's recommendations and instruction manual. Among other things, the technicians shall check starting battery voltage, generator voltage and amperage output.

Other emergency equipment and systems shall be tested quarterly, and needed follow-up repairs or replacement shall be accomplished as soon as feasible.

G. Garbage and Refuse

- Garbage and refuse includes all trash, rubbish, and other putrescible and non-putrescible solid waste, except the solid and liquid waste discharged into the sanitary sewer system of the facility.
- Garbage and refuse shall be collected and removed as often as necessary to maintain sanitary conditions and to avoid creating health hazards.
- Facilities shall comply with all federal, state and local environmental regulations

and requirements governing methods for handling and disposing of refuse.

VI. – HAZARDOUS MATERIALS

Every facility shall establish a system for storing, issuing, using, and maintaining inventories of and accountability for hazardous materials. The facility program will be supervised by a person who has been trained in accordance with OSHA standards. The effectiveness of any such system depends not only on written policies, procedures, and precautions but also on adequate supervision and responsible behavior of staff and detainees, including following instructions precisely, taking prescribed precautions and using safety equipment properly.

A list of common flammable, toxic, and caustic substances is included at the end of this Detention Standard as Table A.

A. Personal Responsibility

Every individual who uses a hazardous substance must:

- be trained in accordance with OSHA standards;
- be knowledgeable about and follow all prescribed precautions;
- wear personal protective equipment when indicated; and
- promptly report hazards or spills to the designated authority.

B. Protective Equipment

- Protective eye and face equipment is required where there is a reasonable probability of injury that can be prevented by such equipment. Areas of the facility where such injuries can occur shall be conspicuously marked with eye hazard warning signs.
- Eyewash stations that meet the standards of the OSHA shall be installed in designated areas throughout the facility, and all employees and detainees in those areas shall be instructed in their use.

C. Inventories

Every area shall maintain a current inventory of the hazardous substances (flammable, toxic, or caustic) used and stored there. Inventory records shall be maintained separately for each substance. Entries for each shall be logged on a separate card (or equivalent) filed alphabetically by substance. The entries shall contain relevant data, including purchase dates and quantities, use dates and quantities, and quantities on hand.

D. Material Safety Data Sheets Files

Every department or other area of the facility using hazardous substances shall maintain a file of Material Safety Data Sheets (MSDSs) that includes a list of the locations where hazardous substances are stored, along with a diagram and legend of

these locations. Designated staff from each department or area shall provide a copy of each file to the Maintenance Supervisor.

- MSDSs are produced by manufacturers and provide vital information on individual hazardous substances, including instructions on safe handling, storage, disposal, prohibited interactions, etc.
- Staff and detainees shall have ready and continuous access to the MSDSs for the substances with which they are working. Staff and detainees that do not read English will not be authorized to work with these materials.
- Because changes in MSDSs occur often and without notice, staff must:
 - review the latest issuance from the manufacturers of the relevant substances;
 - update the MSDS files as necessary; and
 - forward any changes to the Maintenance Supervisor, so that the copy is kept current.

E. Master Index

The Maintenance Supervisor shall compile:

- a master index of all hazardous substances in the facility and their locations;
- a master file of MSDSs; and
- a comprehensive, up-to-date list of emergency phone numbers (fire department, poison control center, etc.).

The Maintenance Supervisor maintains this information in the safety office (or equivalent) and ensures a copy is sent to the local fire department.

F. General Guidelines Regarding Hazardous Substances

Issuance. Flammable, caustic, and toxic substances (hazardous substances) shall be issued (that is, drawn from supply points to canisters or dispensed) only under the supervision of the designated officer.

Amounts. Hazardous substances shall be issued in single-day increments (the amount needed for one day's work.)

Supervision. Qualified staff shall closely monitor detainees working with hazardous substances.

Accountability. Inventory records for a hazardous substance must be kept current before, during, and after each use.

G. Flammable and Combustible Liquids

1. Any liquid or aerosol labeled "Flammable" or "Combustible" must be stored and used as prescribed on the label required by the Federal Hazardous Substances Labeling Act.

2. Lighting fixtures and electrical equipment installed in flammable liquid storage rooms must meet National Electrical Code requirements in hazardous locations.
3. Every hazardous material storage room shall:
 - Be of fire-resistant construction and properly secured;
 - Have self-closing fire doors at each opening;
 - Be constructed with either a four-inch sill or a four-inch depressed floor; and
 - Have a ventilation system (mechanical or gravity flow) within 12 inches of the floor, which provides at least six air changes per hour.
4. Every storage cabinet shall:
 - Be constructed according to code and securely locked at all times;
 - Be clear of open passageways, stairways, and other emergency exit areas;
 - Be conspicuously labeled: "Flammable -- Keep Fire Away"; and
 - Contain not more than 60 gallons of Class I or Class II liquids, or more than 120 gallons of Class III liquids.
5. Storage rooms and cabinets may be entered only under secure conditions and under the supervision of authorized staff.
6. Any portable container that is not the original shipping container must be designated as an approved safety can, which is listed or labeled by a nationally recognized testing laboratory. Each container shall bear a legible label that identifies its contents.
7. Excess liquids shall remain in original containers, tightly closed, in the storage room or cabinet.
8. The MSDS shall govern use of a particular flammable or combustible liquid.
9. Only authorized staff may dispense flammable and combustible liquids, using acceptable methods for drawing or transferring these liquids.

Drawing from or transferring any of these liquids into containers indoors is prohibited except:

- Through a closed piping system;
- From a safety can;
- By a device drawing through the top; or
- By gravity, through an approved self-closing system.

An approved grounding and bonding system must be used when liquids are dispensed from drums.

10. Without exception, cleaning liquids must have a flash point at or above 100° F (for example, Stoddard solvents, kerosene). Cleaning operations must be in an approved parts-cleaner or dip tank fitted with a fusible link lid with a 160° F melting-temperature link.

11. Staff shall follow MSDS directions:

- When disposing of excess flammable or combustible liquids; or
- After a chemical spill.

H. Toxic and Caustic Substances

- All toxic and caustic materials must be stored in secure areas, in their original containers, with the manufacturer's label intact on each container.
- Authorized staff only shall draw/dispense these substances, in accordance with the applicable Material Safety Data Sheet(s).
- Staff shall either return unused amounts to the original container(s) or, under certain circumstances, to another suitable, clearly labeled container in the storage area.
- MSDS directions shall determine the disposal and spill procedures for toxic and caustic materials used in the facility.

I. Poisonous Substances

Poisonous substances or chemicals, such as methyl alcohol, sulfuric acid, muriatic acid, caustic soda or tannic acid, among others, pose a very high (Class I) caustic hazard due to their toxicity.

Methyl alcohol, variously referred to as wood alcohol and methanol, is commonly found in industrial applications (for example, shellac thinner, paint solvent, duplicating fluid, solvents for leather cements and dyes, flushing fluid for hydraulic brake systems):

- If ingested, methyl alcohol can cause permanent blindness or death.
- Staff must directly supervise the use of any product containing methyl alcohol. Products containing methyl alcohol in a very diluted state, such as shoe dye, may be issued to detainees, but only in the smallest workable quantities.
- Immediate medical attention is vital any time methyl alcohol poisoning is suspected.

J. Other Toxic Substances

1. Permanent **antifreeze** containing ethylene glycol shall be stored in a locked area and dispensed only by authorized staff.
2. **Typewriter cleaner** containing carbon tetrachloride or trichloroethane shall be dispensed in small quantities and used under direct staff supervision.
3. **Cleaning fluids** containing carbon tetrachloride or trichloroethylene shall be strictly controlled.
4. **Glues** of every type may contain hazardous chemicals. When use of a nontoxic product is not possible, staff must closely supervise all stages of handling. The toxic glues must be stored in a locked location.
5. The use of **dyes and cements for leather** requires close supervision.

Nonflammable types shall be used whenever possible.

6. **Ethyl alcohol, isopropyl alcohol, and other antiseptic products** shall be stored and used only in the medical department and only under close supervision. To the extent practical, such chemicals shall be diluted and issued in small quantities to prevent any injuries or lethal accumulation.
7. **Pesticides** not currently approved by the Environmental Protection Agency, such as DDT and 1080 (sodium fluoracetate), are prohibited. The Maintenance Supervisor is responsible for purchasing, storing (in a locked area), and dispensing all pesticides used in the facility.
8. The Maintenance Supervisor or other staff members responsible for **herbicides** must hold a current state license as a Certified Private Applicator. Persons applying herbicides must wear proper clothing and protective gear.
9. **Lyes** may be used only in dye solutions and only under the direct supervision of staff.

K. Labeling of Chemicals, Solvents, and Other Hazardous Materials

The facility administrator shall individually assign the following responsibilities associated with the labeling procedure:

- Identifying the hazardous nature of materials adopted for use;
- Requiring use of properly labeled containers for hazardous materials, including any and all miscellaneous containers into which employees might transfer the material;
- Teaching staff the meaning of the classification code and the MSDS, including the safe handling procedures for each material, and impressing on staff the need to ensure containers are properly labeled; and
- Placing correct labels on all smaller containers when only the larger shipping container bears the manufacturer-affixed label.

L. Controlled Hazardous Materials

Certain substances require special treatment and careful planning and precautions before use. These controlled materials are classified according to the type of hazard and the nature of the restrictions imposed for their safe use, as specified in OSHA regulations.

Class I: Industrial Solvents. Industrial solvents and chemicals used as paint thinners, degreasers, and cleaning agents may have toxic properties and low flash points, making them dangerous fire hazards.

Class II: Restricted Materials. Beryllium, its alloys and compounds, and silver solder containing cadmium pose a danger to workers, for whom special precautions must be taken.

Class III: Recognized Carcinogens. OSHA-listed carcinogens are governed by the OSHA regulations provided in 29 CFR 1910.1000.

Although asbestos appears on the OSHA list, it is exempt from the regulation when:

- no asbestos fibers will be released into the air during handling and use; and
- the asbestos consists of firmly bound fibers contained in a product such as: a transit pipe, wallboard, or tile (except when being sawed or otherwise handled in a way that releases fibers into the air).

Class IV: Suspected Carcinogenic, Teratogenic, and Mutagenic Materials. Chemical agents, substances, mixtures, and exposures are listed in the biennial *Report on Carcinogens* issued by the U.S. Public Health Service, in accordance with the Public Health Service Act. The Maintenance Supervisor shall ensure the facility has copies of the report and that there is compliance with the provisions of the latest edition.

VII. EXPECTED PRACTICES – FIRE PREVENTION AND CONTROL

A. Fire Safety Codes

Every facility shall comply with standards and regulations issued by:

- OSHA;
- the American Correctional Association "mandatory" Expected Practices;
(Mandatory ACA Expected Practice 4-ALDF-1C-07 requires that the facility conform to applicable federal, state, and/or local fire safety codes, and that the authority having jurisdiction document compliance. **A fire alarm and automatic detection system are required** (or there is a plan for addressing these or other deficiencies within a reasonable time period), as approved by the authority having jurisdiction. If the authority approves any variance, exceptions, or equivalencies, they must not constitute a serious life-safety threat to the occupants of the facility.)
- local and national fire safety codes, and
- applicable standards of the American Society for Testing and Materials, American National Standards Institute, and Underwriters' Laboratories or Factory Mutual Engineering Corporation.

New construction, alterations, and renovations, shall comply with:

- the latest revision or update of the International Council Codes.
- the Uniform Building Code; or
- the Standard Building Code, in accordance with 40 USC Title 619 and local law.

If the local government does not mandate adherence to a particular code, construction must conform to the International Council Codes.

In addition, the construction shall comply with the latest edition of the National Fire Protection Association's (NFPA) 101, Life Safety Code and National Fire Codes (NFCs). If the fire protection and life safety requirements of a local building code differ

from NFPA 101 or the NFCs, the requirements of NFPA 101 and the NFCs shall take precedence and be recognized as equivalent to the local building code.

B. Inspections

A qualified departmental staff member shall conduct weekly fire and safety inspections.

Facility maintenance (safety) staff shall conduct monthly inspections.

Written reports of the inspections shall be forwarded to the facility administrator for review and, if necessary, corrective action determinations. The Maintenance Supervisor shall maintain inspection reports and records of corrective action in the safety office. Fire safety deficiencies shall be promptly addressed.

C. Fire Prevention, Control, and Evacuation Plan

Every facility shall develop a fire prevention, control, and evacuation plan that includes the following:

1. Control of ignition sources;
2. Control of combustible and flammable fuel load sources;
3. Provisions for occupant protection from fire and smoke;
4. Inspection, testing, and maintenance of fire protection equipment, in accordance with NFPA codes, etc.;
5. Monthly fire inspections;
6. Installation of fire protection equipment throughout the facility, in accordance with NFPA codes;
7. Accessible, current floor plans (buildings and rooms); prominently posted evacuation maps/plans; exit signs and directional arrows for traffic flow; with a copy of each revision filed with the local fire department; and
8. Exit diagrams that shall be conspicuously posted throughout the facility.

D. Fire Drills

Fire drills shall be conducted and documented at least quarterly in all facility locations including administrative areas.

1. Fire drills in housing units, medical clinics, and other areas occupied or staffed during non-working hours shall be timed so that employees on each shift participate in an annual drill.
2. Detainees shall be evacuated during fire drills, except: in areas where security would be jeopardized; in medical areas where patient health could be jeopardized; or in individual cases when evacuation of patients is logistically not feasible. Staff shall simulate drills in areas where detainees are not evacuated.
3. Emergency-key drills shall be included in each fire drill, and timed. Emergency keys shall be drawn and used by the appropriate staff to unlock one set of emergency exit doors not in daily use. NFPA recommends a limit of four and one-half minutes for drawing keys and unlocking emergency doors. However,

when conducting fire drills emphasis will be placed on safe and orderly evacuation rather than speed.

E. Exit Diagram

In addition to a general area diagram, the following information must be provided on signs:

- Instructions in English, Spanish and the next most prevalent language at the facility;
- "You Are Here" markers on exit maps; and
- Emergency equipment locations.

"Areas of Safe Refuge" shall be identified and explained on diagrams. Diagram posting will be in accordance with applicable fire safety regulations of the jurisdiction.

VIII. EXPECTED PRACTICES – MEDICAL OPERATIONS

A. Needles and Other Sharp Objects

An established uniform procedure shall be established for the safe handling and disposal of used needles and other potentially sharp objects (sharps) to prevent both mechanical injury and the percutaneous transmission of infectious disease organisms, such as hepatitis B virus (HBV) and human immunodeficiency virus (HIV). Sharps are defined as all disposable or discarded items derived from detainee care that could potentially transmit disease via direct subdermal inoculation. Items included are: hypodermic needles and syringes, scalpel blades, glass vials or ampules containing materials deemed to be infectious, burrs, glass cartridges, and lancets.

Accidental injuries from sharp objects are common in health care programs; most are from needle sticks caused by staff attempting to recap hypodermic needles. A uniform procedure for used needles and other disposable sharps is necessary to reduce the number of such injuries by preventing the secondary handling of needles and other dangerous sharp objects used in the delivery of medical care.

B. Standard Precautions (includes “Universal Precautions”)

Staff shall frequently wash their hands and routinely take precautions to prevent contact with blood or other body fluids.

- a. Gloves shall be worn: prior to touching blood and body fluids, mucous membranes, or non-intact skin of all patients; prior to handling items or surfaces soiled with blood or body fluids; and prior to performing venipuncture and other vascular access procedures.

Gloves shall be changed after contact with each detainee.

- b. Masks and protective eye wear or face shields shall be worn during procedures that are likely to generate droplets of blood or other body fluids,

- c. Gowns or aprons shall be worn during procedures that are likely to generate splashes of blood or other body fluids.
- d. Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands shall be washed immediately after gloves are removed.
- e. All health-care workers shall take precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures, when cleaning used instruments, during disposal of used needles, and when handling sharp instruments after procedures. Instruments and drugs will be maintained in a secure and sanitary condition,
- f. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After use, disposable syringes and needles, scalpel blades, and other sharp items shall be placed in puncture-resistant containers for disposal.
- g. Large-bore reusable needles shall be placed in a puncture resistant container for transport to the reprocessing area.
- h. To minimize the need for emergency mouth-to-mouth resuscitation, mouthpieces, resuscitation bags or other ventilation devices shall be available for use in areas in which the need for resuscitation is predictable.
- i. Health-care workers who have exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient care equipment until the condition resolves.
- j. Pregnant health-care workers shall strictly adhere to precautions to minimize the risk to the infant of perinatal transmission of HIV.
- k. Implementation of standard blood and body fluid precautions for all detainees eliminates the need for the use of isolation category of "Blood and Body Fluid Precautions" previously recommended by the Centers for Disease Control for individuals known or suspected to be infected with blood-borne pathogens. Isolation precautions shall be used as necessary if associated conditions, such as infectious diarrhea or tuberculosis, are diagnosed or suspected.

Staff should encourage detainees to frequently wash their hands and routinely take precautions to prevent contact with blood or other body fluids.

C. Accidental Needle Sticks

Any employee or detainee who receives a needle stick or who is cut while handling potentially contaminated sharps shall be counseled regarding baseline testing for HBV and HIV and referred to their usual source of health care. If the injury also involves a person who is a known source of possible infection, that person shall also be tested for HBV and HIV. The incident shall be reported as an occupational injury and documented in accordance with applicable regulations for commissioned officers and civil service employees, respectively.

The leading health service provider's exposure-control plan shall be followed in the event of a needle stick.

D. Inventory

Items that pose a security risk, such as sharp instruments, syringes, needles, and scissors, shall be inventoried and checked weekly by an individual designated by the medical facility's Health Service Administrator (HSA) or equivalent.

E. Handling

Without removing the needles or replacing the needle covers, staff shall place used (disposable) syringes in a plastic disposal box or container.

1. Disposal Containers

Use only commercially available, biohazardous-waste sharps containers approved by the National Institute of Safety and Health (for example, a "Winfield Sharps Container.").

Do not use milk cartons or plastic milk jugs or other plastic containers of similar thickness.

Use containers with a two-gallon capacity (approximate)

Under no circumstances shall an item be removed from the sharps container.

2. Location

Sharps Containers shall be located on top of counters or, if on the wall, at least five feet above ground. Containers shall never sit on the floor.

3. Disposal

When the disposal box is one-half to two-thirds full, the lid shall be closed and locked, and tape shall be placed over the top of the lid to indicate that it is ready for disposal. The container shall be labeled with the words "infectious waste" or with the universal biohazard symbol, and placed in the proper area for removal and disposal.

Sharps are considered infectious waste, and final disposal of the container and contents shall be through a commercial contractor that handles disposal of infectious waste in accordance with all local and federal regulations.

The HSA shall make arrangements for disposal with an approved contractor and is responsible for validating that the contractor's disposal methods are in accordance with all infectious and hazardous waste disposal laws and regulations. Arrangements shall be made with local hospitals, if possible, for disposal with the hospitals' own infectious waste.

F. Environmental Health in Medical Operations

While many of the following considerations, precautions, and specific procedures apply to situations that typically arise in medical operations, in many cases they have general application to all facility operations.

1. General Housekeeping

Environmental cleanliness will prevent, reduce and control nosocomial infections due to contaminated environmental surfaces. The HSA or designee is responsible

for ensuring the cleanliness of the medical facility.

Using an acceptable health agency standard as a model, the HSA shall establish:

- The cleaning equipment; cleansers; disinfectants and detergents to be used,
- The Methods of cleaning, and
- The frequency of cleaning and inspections.

The HSA or designee shall make a daily visual inspection of the medical facility noting the condition of floors, walls, windows, horizontal surfaces, and equipment.

All surfaces touched by detainees or staff shall be cleaned using fresh solutions of appropriate disinfectant products, applied with clean cloths, mops, or wipes. Cleaned surfaces need not be monitored microbiologically since the results of such tests have been shown not to correlate with infection risk. Floors, walls, beds, tables, and other surfaces that usually come in contact with intact skin require low-level disinfection.

Horizontal surfaces in detainee care areas are cleaned on a regular basis, when soiling or spills occur. Additionally, short-stay units are cleaned when a detainee is discharged. Cleaning of walls, blinds, or curtains is required only when visibly soiled.

The Chief Nurse (or equivalent) is responsible for training all staff and detainees in using proper housekeeping procedures and proper handling of hazardous materials and chemicals.

a. General Cleaning

1. All horizontal surfaces shall be damp-dusted daily with an approved germicidal solution.
2. Windows, window frames, and windowsills shall be cleaned on a regular schedule, but do not require daily cleaning.
3. Furniture and fixtures shall be cleaned daily.
4. Floors shall be mopped daily and when soiled using the double-bucket mopping technique. The cleaning solution shall be a hospital disinfectant-detergent solution mixed according to the manufacturer's directions. A clean mop head shall be used each time the floors are mopped.
5. Waste containers shall be lined with plastic bags and the liner shall be changed daily. The container itself shall be washed at least weekly, or as needed when it becomes soiled.
6. Cubicle curtains shall be laundered monthly or during terminal cleaning following treatment of an infectious patient.

b. Isolation Cleaning

1. An approved germicidal detergent solution shall be freshly prepared in accordance with the manufacturer's specifications for each cleaning.

2. After cleaning the isolation room, mops and cleaning cloths shall be laundered before being reused.
3. Dirty water and used disinfecting solutions shall be discarded and the buckets and basins disinfected before being refilled. Items used in cleaning a contaminated isolation room shall never be taken into another area.
4. Linens shall be carefully removed from the bed and double bagged for transport.
5. All waste materials shall be double bagged and disposed of as contaminated waste.

c. Terminal Cleaning

1. Every item in the room must be cleaned with an approved hospital germicidal solution.
2. When applicable, linen shall be stripped from the bed, with care taken not to shake the linen. Linen shall be folded away from the person and folded inward into a bundle, then removed with minimal agitation.
3. When applicable, all reusable receptacles such as drainage bottles, urinals, bedpans, water pitchers shall be emptied and rinsed with germicidal solutions.
4. All equipment that is not to be discarded, such as IV poles, respirators and suction machines, shall be washed with an approved germicidal solution following manufacturer's guidelines for cleaning the specific piece of equipment.
5. When applicable, mattresses and pillows covered with durable plastic covers shall be thoroughly washed with the approved germicidal solution.
6. When applicable, beds shall be washed thoroughly using a small brush soaked in the germicidal solution to gain access to small holes and crevices, to areas between the springs, and to the casters.
7. All furniture shall be washed with a germicidal detergent solution. Use a small brush if necessary. Outside and underside as well as legs and casters must also be washed.
8. Wastebaskets shall be thoroughly washed with a germicidal solution after trash has been removed.
9. Telephones shall be thoroughly cleaned with a clean cloth soaked in the germicidal solution. The earpiece and mouthpiece shall be unscrewed, scrubbed, dried and replaced.
10. Walls and ceilings need not be washed entirely, but areas that are obviously soiled shall be washed with germicidal solution.

d. Choice of Disinfecting Materials

Hospital-grade disinfectant-detergent formulations registered by the Environmental Protection Agency may be used for environmental surface cleaning, but the physical removal of microorganisms by scrubbing is also as important as any antimicrobial effect of the cleaning agent used.

Cost, safety, and acceptance by staff should be the criteria for selecting any such registered agent. The manufacturer's instructions for use shall be followed exactly.

2. Blood and Body Fluid Clean-up

Spills of blood and body fluids shall be cleaned up and the surface decontaminated in such a manner as to minimize the possibility of workers becoming exposed to infectious organisms, including HIV and HBV. A suitable cleanup kit shall be maintained for use in cases of spills of blood and body fluids. Cleanup kits may be obtained from commercial sources, or kits may be put together by ICE/DRO HSD staff or the designated health care provider.

a. Making a Clean-up Kit

To prepare a clean-up kit for blood and body fluid spills, package the following materials in a 12" x 15" clear" Ziploc" bag:

Gloves, rubber or vinyl, household type, (2 pair)

Clean absorbent rags (4)

Absorbent paper towels (15)

Disposable bag marked "Contaminated" size 23"x10"x39", minimum thickness 1.5 mils.

Clear plastic bag 13"x10"x39", minimum thickness 1.5 mils.

Bottle of "hospital disinfectant" (containing quaternary ammonium chlorides in at least 0.8% dilution), or a bottle of household bleach such as "Clorox" or "Purex" (5.25 % sodium hypochlorite).

b. Selection of Disinfectants

Dilute solutions of sodium hypochlorite are reported extremely effective against both HIV and the Hepatitis B virus and therefore have been recommended for use in environmental decontamination procedures. Quaternary ammonium compounds are less effective against Hepatitis B. Chlorine in solution inactivates virus quickly and efficiently but must reach the virus particles to do so.

Proteinaceous materials may interfere with the ability of the appropriate disinfectant solution to reach the virus particles. Since quaternary disinfecting compounds may act as a detergent as well as a disinfectant, their use may help in the cleaning and removal of proteinaceous materials from surfaces.

A facility may use one of these compounds to help clean the surface, and then follow with the use of chlorine solution for final disinfection. Using one disinfectant compound rather than two would keep the procedure as simple as possible. By following routine medical cleaning procedures, most blood or fluids would be removed from the surface before application of the disinfectant, so the use of sodium hypochlorite solution shall be sufficient.

c. Selection of Gloves

Household or industrial rubber gloves have been recommended for use rather than surgical rubber gloves. Surgical gloves are somewhat porous and are less resistant to mechanical damage and punctures during clean-up procedures.

d. Assignment of Cleaning Duties to Detainees in Medical Facilities

Detainee workers may be assigned duties cleaning the medical facility. Detainees are permitted to clean floors, walls, and to remove trash, but are not permitted to clean medical equipment.

e. Instructions for Use of Clean-Up Kit

1. Open the bag and remove the supplies.
2. Depending on the type of disinfectant in the kit, take out bottle of "hospital disinfectant", or prepare a dilute solution of sodium hypochlorite. To prepare a 1:10 dilution of 5.25% sodium hypochlorite, mix 1 part of 5.25 % sodium hypochlorite (common household bleach) with 10 parts water.
3. Open the large clear plastic bag and the large bag marked "Contaminated". Place them next to each other.
4. Put on one pair of gloves.
5. Use paper towels to absorb as much of the fluid as possible; then place paper towels in the large clear plastic bag.
6. Pour the solution carefully onto the spill area. Dispose of the empty bottle in the large, clear plastic bag. Leave disinfectant in place for 15 minutes.
7. Use the rags to clean the area, and place rags in the large clear plastic bag.
8. Tie off the clear plastic bag and place it inside the large plastic bag marked "Contaminated."
9. Remove gloves carefully and place them in the plastic bag marked "Contaminated."
10. Put on the second pair of gloves and tie the "Contaminated" trash bag closed.
11. Dispose of the "Contaminated" trash bag properly in a contaminated-waste receptacle.
12. Dispose of the second pair of gloves in the contaminated-waste

receptacle.

13. Wash your hands.

14. Prepare a new clean-up kit.

NOTE: Do not place linen or non-disposable articles in the "Contaminated" trash bag.

3. Hazardous and Infectious Waste Disposal

Infectious and hazardous waste generated at a medical facility shall be stored and disposed of safely and in accordance with all applicable federal and state regulations.

For identified wastes that represent sufficient risk of causing infection or injury during handling and disposal, the following precautions shall be applied.

a. Definitions

Hazardous or infectious waste is defined as: microbiology laboratory waste; human blood and blood products; sharps (as defined in Section VIII, A above); laboratory and other chemicals; or certain drugs such as antineoplastic.

Miscellaneous biomedical waste is defined as waste materials that are not specifically defined as infectious waste. Such waste includes bandages, dressings, casts, catheters, and disposable pads.

Waste from detainees in isolation is not considered to be infectious waste unless it falls within the specific definition of infectious waste as stated above.

b. Collection and Storage

Infectious waste must be separated from the general waste stream and clearly labeled as infectious:

- Infectious waste shall be double-bagged and tied and labeled "Infectious Waste."
- The bags used must be impermeable, commercially supplied red bags intended specifically for biohazardous waste storage.
- Miscellaneous biomedical waste shall be double-bagged and tied but need not be labeled as infectious.

c. Treatment and Disposal

Blood products and designated body fluids shall be poured slowly and carefully down a toilet to prevent splash. Compacting of untreated infectious waste is prohibited. The waste disposal contractor must meet all state or and local requirements for transportation and disposal.

IX. – BARBER OPERATIONS

Sanitation in barber operations is of the utmost concern because of the possible transfer of

diseases through direct contact or by towels, combs and clippers. Towels shall not be reused by other detainees until sanitized. Instruments such as combs and clippers shall not be used successively on detainees without proper cleaning and disinfecting.

1. For sanitation reasons, it is preferable that barbering operations be located in a room that is not used for any other purpose. The floors, walls, and ceilings should be smooth, nonabsorbent and easily cleaned. There should be sufficient light, and the room shall be supplied with hot and cold running water.
2. Each barbershop should have all equipment and facilities necessary for maintaining sanitary procedures for hair care, including covered metal containers for waste, disinfectants, dispensable headrest covers, laundered towels, and haircloths.
3. After each detainee visit, all hair care tools that came in contact with the detainee shall be cleaned and effectively disinfected. Ultraviolet lights are not appropriate for sterilization but may be used for maintaining tools that have already been properly sterilized.
4. Detailed hair care sanitation regulations shall be conspicuously posted in each barbershop for the use of all hair care personnel and detainees. Cotton pads, absorbent cotton and other single or dispensable toilet articles may not be reused, and shall be placed in a proper waste receptacle immediately after use. The common use of brushes, neck duster, shaving mugs and shaving brushes is prohibited.
5. Barbers or beauticians shall not provide service to any detainee when the skin of the detainee's face, neck, or scalp is inflamed, or when there is scaling, pus, or other skin eruptions, unless service of such detainee is performed in accordance with the specific authorization of the Chief Medical Officer. No person who is infested with head lice shall be served.

Standard Approved:

James T. Hayes, Jr. /s/

12/5/2008

James T. Hayes, Jr.
Director
Office of Detention and Removal Operations

Date

TABLE A
Common Flammable, Toxic, and Caustic Substances

Class I Liquids

Gasoline
Benzene (Petroleum ether)
Acetone
Hexane
Lacquer
Lacquer thinner
Denatured alcohol
Ethyl alcohol
Xylene (Xylol)
Contact cement (flammable)
Toluene (Toluene)
Methyl ethyl ether
Methyl ethyl ketone
Naphthalene, M, and P

Toxic Substances

Ammonia
Chlorine
Antifreeze
Duplicating fluid
Methyl alcohol
Defoliants
Herbicides
Pesticides

Class II Liquids

Diesel fuel
Motor fuel
Kerosene
Cleaning solvents
Mineral spirits
Agitation

Caustic Substances

Lye
Muriatic acid
Caustic soda
Sulfuric acid
Tannic acid

Class III Liquids

Paint (oil base)
Linseed oil
Mineral oil
Neat's-foot oil
Sunray conditioner
Guardian fluid

ICE/DRO DETENTION STANDARD

SPECIAL MANAGEMENT UNITS

I. PURPOSE AND SCOPE. This Detention Standard protects detainees, staff, contractors, volunteers, and the community from harm by segregating certain detainees from the general population in Special Management Units (SMUs) with an Administrative Segregation section for detainees segregated for administrative reasons and a Disciplinary Segregation section for detainees segregated for disciplinary reasons.

It applies to the following types of facilities housing DRO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by DRO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs and CDFs. IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document may be defined in the separate **Definitions** Standard.

II. EXPECTED OUTCOMES. The expected outcomes of this Detention Standard are:

1. Each facility will have Special Management Units with an Administrative Segregation section for detainees segregated from the general population for administrative reasons and a Disciplinary Segregation section for detainees segregated from the general population for disciplinary reasons.
2. Detainees housed in the general population, staff, contractors, volunteers, and the local community will be protected from harm by the segregation of certain detainees in SMUs.
3. Any detainee who represents an immediate, significant threat to safety, security or good order will be immediately controlled by staff and, for cause and with supervisory approval, placed in Administrative Segregation.
4. Health care personnel will be immediately informed when a detainee is admitted to an SMU to provide assessment and review as indicated by health care authority protocols.
5. A detainee will be placed in “protective custody” status in Administrative Segregation only when there is documentation that it is warranted and that no reasonable alternatives are available.

6. A detainee will be placed in Disciplinary Segregation only after a finding by a Disciplinary Hearing Panel that the detainee is guilty of a prohibited act or rule violation classified at a "Greatest", "High", or "High-Moderate" level, as defined in the Detention Standard on Disciplinary System, Attachment A: Prohibited Acts and Sanctions.

7. The status of detainees in Special Management Units will be reviewed in accordance with required time schedules by supervisory staff and the results of those reviews will be documented.

8. A detainee will remain in Disciplinary Segregation for no more than 60 days for violations associated with a single incident, and his or her status will be reviewed after the first 30 days, and each 30 days thereafter by the facility administrator and the Field Office Director to determine if continued detention in Disciplinary Segregation is still warranted.

9. Detainees in SMUs will be afforded basic living conditions that approximate those provided to the general population, consistent with the safety and security considerations that are inherent in more controlled housing, and in consideration of the purpose for which each detainee is segregated.

10. In general, when a detainee in an SMU is deprived of any usually authorized items or activity, a report of the action is forwarded to the facility administrator for notice and review.

11. Detainees in SMUs will have regular access to supervisory, management, program, and health care staff.

12. Each detainee in an SMU will be offered a minimum of one hour of recreation per day, five days a week, unless documented security or safety considerations dictate otherwise.

13. Detainees in SMUs will be able to write and receive mail and correspondence as they would otherwise be able to do while detained within the general population.

14. Detainees in SMUs will be provided opportunities for general visitation, including legal visitation, unless there are substantial, documented reasons for withholding those privileges.

15. Detainees in SMUs will have access to personal legal materials, law library materials, and legal visits, in accordance with provisions in this Detention Standard.

16. Detainees in SMUs will have access to telephones, in accordance with provisions in this Detention Standard.

17. Detainees in SMUs will have access to programs and services such as commissary, library, religious guidance, and recreation, in accordance with provisions in this Detention Standard.

18. Detailed records will be maintained on the circumstances related to a detainee's confinement to the SMU, through required permanent SMU logs and individual detainee records.

19. The applicable contents and procedures in this Standard will be communicated to the detainee in a language or manner which the detainee can understand.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Special Management Unit (Administrative Segregation)** and **Special Management Unit (Disciplinary Segregation)**, both dated 9/20/2000.

IV. REFERENCES

American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-2A-44 through 2A-66.

ICE/DRO Detention Standards on:

Correspondence and Other Mail
Disciplinary System
Facility Security and Control
Law Libraries and Legal Material
Personal Hygiene
Recreation
Searches of Detainees, particularly the section on Close Observation in a “Dry Cell”
Staff-Detainee Communication
Telephone Access
Visitation
Hold Rooms in Detention Facilities
Suicide Prevention and Intervention

V. EXPECTED PRACTICES

A. Overview

At times, a detainee must be isolated from the general population of ICE detainees for the protection of the detainee, other detainees, and facility staff. Such isolation is generically termed “segregation” and takes two different forms, depending on its intended purpose:

1. **Administrative Segregation** (also referred to as “Administrative Detention” by the Federal Bureau of Prisons), and
2. **Disciplinary Segregation** (also referred to as “Disciplinary Detention” by the ACA Standards).

DRO refers to each of these types of segregated housing as a “Special Management Unit,” and in many detention facilities, there is one SMU that has two sections, one for each type of segregation. While many of the standards, requirements, and basic operational procedures are the same for both SMU types, some distinct differences remain and are detailed below under **Basic Requirements for All Special Management Units**.

A detainee may be placed in **Disciplinary Segregation** only after being found guilty, through a formal disciplinary process, of a facility rule violation. Therefore, detainees in **Disciplinary Segregation** generally have fewer privileges than those in non-punitive **Administrative Segregation**. In particular, they are subject to more stringent controls,

for example, in regard to personal property and reading material. Additional limitations may also be imposed upon their television viewing, commissary/vending machine privileges, etc. Detainees in Administrative Segregation generally will be housed separately from those in Disciplinary Segregation

Because of that basic difference, the procedures for placing a detainee in **Administrative Segregation** are different than those for **Disciplinary Segregation**, as are the requirements for periodic review of each detainee, as detailed below.

B. Basic Requirements for All Special Management Units

Conditions of confinement are based on the amount of supervision required to control a detainee and safeguard the detainee, other detainees, and facility staff. Therefore, the standard SMU living conditions specified below may not be modified for either disciplinary or punitive purposes. Staff shall treat each detainee in an SMU in a decent and humane manner, regardless of the purpose for which the detainee is segregated.

In every instance, any exceptions to these requirements shall be:

- Made only for the purpose of ensuring detainee and facility staff safety and security (i.e., not for purposes of punishment);
- Approved by a security supervisor (or higher official);
- On a temporary and situational basis, continued only for as long as it is justified by threat to the safety or security of the facility, its staff, or detainee population; and
- Documented in the unit log and, under circumstances specified later in this Detention Standard, documented in a memo which shall be placed in the individual detainee's detention file.

When a detainee in an SMU is deprived of any usual authorized items or activity, a report of the action shall be forwarded to the facility administrator. This report shall be made part of the detainee's facility record or disciplinary file.

1. **Control of Contraband and Tools.** In accordance with procedures detailed in the Detention Standard on **Facility Security and Control**, each facility administrator is required to establish written policy and procedures to control and secure SMU entrances, contraband, tools, and food carts.
2. **Permanent Special Management Unit Logs.** The facility administrator shall ensure that permanent housing logs are maintained in SMUs to record specified data on detainees upon admission to and release from the unit. These logs shall also be used by supervisory staff and other officials to record their visits to the unit.
3. **Cell Occupancy.** Ordinarily, the number of detainees confined to each cell or room may not exceed the capacity for which it was designed. Under exigent circumstances, before approving any additional cell occupancy on a temporary basis, the facility administrator shall consult with HQ DRO's Detention Management Division, who shall consult with DHS/ICE legal counsel. If a decision is made to approve such additional cell occupancy, a report of the action should be filed with the facility and with the ICE Field Office Director.

4. **Cell Condition.** Cells and rooms used for purposes of segregation must be well ventilated, adequately lit, appropriately heated and maintained in a sanitary condition at all times.
 - a. All cells must be equipped with beds that are securely fastened to the cell floor or wall.
 - b. Conditions for close observation in a “dry cell” without water are detailed in the Detention Standard on **Searches of Detainees**.
5. **Personal Property.** Each facility shall issue guidelines in accordance with this Standard concerning the property detainees may retain in each type of segregation. Generally, detainees in **Disciplinary Segregation** shall be subject to more stringent personal property restrictions and control than those in **Administrative Segregation**, given the non-punitive nature of Administrative Segregation.
6. **Privileges.** Each facility shall issue guidelines in accordance with this Standard concerning the privileges detainees may have in each type of segregation.
 - a. **Administrative Segregation** -- Generally, these detainees shall receive the same privileges as are available to detainees in the general population, depending on any safety and security considerations for detainees, facility staff and security. When space and resources are available, detainees in **Administrative Segregation** may be provided opportunities to spend time outside their cells (in addition to the required recreation periods), for such activities as socializing, watching TV, and playing board games and may be assigned to work details (for example, as orderlies in the SMU).
 - b. **Disciplinary Segregation** -- Generally, these detainees shall have fewer privileges than other detainees in either the general population or in Administrative Segregation. More specifically, they are subject to more stringent personal property control including, but not limited to, limitations on their reading material and television viewing (which may be completely terminated), and restricted commissary or vending machine purchases.
7. **Close Supervision.** Detainees in SMUs shall be personally observed at least every 30 minutes on an irregular schedule. For cases that warrant increased observation, the SMU personnel will personally observe them accordingly. (See also **Suicide Prevention** and **Searches of Detainees**, section on dry cells.)
8. **Supervisory and Staff Visits.** In addition to the direct supervision performed by unit staff:
 - a. The shift supervisor shall see each segregated detainee daily, including weekends and holidays.
 - b. The facility administrator (or designee) shall visit each SMU daily.
 - c. Program staff may visit a detainee upon his or her request.
 - d. Field Office staff shall visit a detainee in accordance with the Detention Standard on **Staff-Detainee Communications**.The facility administrator may require other staff to visit each detainee daily.
9. **Health Care.** A health care provider shall visit every detainee in an SMU at least

once daily. Detainees shall be provided medications as prescribed for them. Detainees will have access to regularly scheduled sick call regardless of housing assignment.

Any action taken shall be documented in a separate logbook, and the medical visit shall be recorded on the SMU Housing Record (Form I-888) or equivalent form. A detainee's mental health status shall be reviewed and documented at least once every 30 days.

10. Meals. Detainees in SMUs shall be provided three nutritionally adequate meals per day, according to the general population meal schedule and ordinarily from the same menu; however, for reasons of safety and security, detainees in SMUs shall eat with disposable utensils.

11. Clothing and Personal Hygiene. In accordance with the Detention Standard on **Personal Hygiene**, detainees in SMUs may shave and shower at least three times weekly and receive other basic services such as laundry, hair care, barbering, clothing, bedding, and linen equivalent to general population detainees and consistent with safety and security of the facility.

a. As needed, staff shall provide toilet tissue, a wash basin, tooth brush, and shaving utensils, and may issue retrievable kits of toilet articles.

b. A detainee may be denied such items as clothing, mattress, bedding, linens, or pillow for medical or mental health reasons if his or her possession of such items raises concerns for detainee safety and/or facility security. All denials of such items shall be documented. If a detainee is so disturbed that he or she is likely to destroy clothing or bedding or create a disturbance by risking harm to self or others, the medical department shall be notified immediately and a regimen of treatment and control shall be instituted by the medical staff, as necessary. Extreme detainee behavior, such as destroying clothing or bedding or harmful behavior to self or others, must be documented, made part of the detainee's file with the facility and reported to the ICE Field Office Director to implement necessary efforts to protect and care for the detainee.

12. Correspondence. In accordance with the Detention Standard on **Correspondence and Other Mail**, detainees in an SMU may write and receive letters and other correspondence like those housed in the facility's general population.

13. Visitation. In accordance with the Detention Standard on **Visitation**, while in an SMU, a detainee ordinarily retains visiting privileges.

In a facility that allows contact visits, segregated detainees may ordinarily use the visiting room during normal visiting hours. However, the facility may restrict or disallow general visits for a detainee who violates visitation rules or whose behavior otherwise indicates the detainee would be a threat to the security or the good order of the visiting room.

a. General visitation may be restricted or disallowed when a detainee in **Administrative Segregation** is charged with, or has been found to have committed, a prohibited act related to visiting privileges or has otherwise acted in a way that would reasonably indicate that he or she would be a threat to the orderliness or security of the visiting room.

b. Under no circumstances may detainees participate in general visitation while in

restraints. If the detainee's behavior warrants restraints, the visit may not be granted under general population visiting conditions.

In SPCs and CDFs, detainees in protective custody and violent and disruptive detainees shall not use the visitation room during normal visitation hours. Violent and disruptive detainees may be limited to non-contact visits. In extreme cases, where a visit would present an unreasonable security risk, even non-contact general visits may be disallowed for a particular detainee.

14. Legal Visits. In accordance with the Detention Standard on **Visitation**, detainees in SMUs may not be denied legal visitation. However, the facility administrator, or designee, may implement whatever security precautions are necessary to protect the detainee and visitors and maintain good order. In such cases, staff shall advise legal service providers and assistants of any security concerns prior to their visits.

15. Religious Guidance. Detainees in SMUs shall be allowed visits by members of the clergy, upon request, unless the supervisor determines such a visit presents a safety or security risk, or would interfere with the orderly operation of the facility. Violent and uncooperative detainees may be temporarily denied access to religious guidance. Staff shall advise the clergy member of the detainee's present state of behavior before he or she agrees to visit the detainee. Each facility will develop procedures to allow detainees to retain religious items within their possession consistent with good security practices (e.g., religious wearing apparel, religious headwear, prayer rugs, beads, prayer rocks, medallions).

16. Reading Materials (Non-Legal). Detainees in SMUs shall have access to reading materials, including religious materials. The Recreation Specialist shall offer each detainee soft-bound, reading materials of this type on a rotating basis

17. Legal Materials. Detainees in SMUs shall have access to legal materials, in accordance with the Detention Standard on **Law Libraries and Legal Material**.

Detainees may retain a reasonable amount of personal legal material upon admittance to an SMU, provided such material does not create a safety, security or sanitation hazard.

Detainees with a large amount of legal material may be required to place a portion with their stored personal property, with access permitted during scheduled hours. Requests for access to such 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.

18. Law Library Access. In accordance with the Detention Standard on **Law Libraries and Legal Material**, detainees housed in **Administrative Segregation** or **Disciplinary Segregation** units shall have the same law library access as the general population, unless compelling security concerns require limitations.

a. Facilities may supervise the library use by a detainee housed in an SMU as warranted by the individual's behavior. Detainees segregated for protection must be provided access to legal materials. Such detainees may be required to use the law library separately or, if that is not feasible, legal materials must be brought to them upon request

b. Violent or uncooperative detainees may be temporarily denied access to the law library if necessary to maintain security, until such time as their behavior warrants resumed access. In some circumstances, legal material may be brought to individuals in **Disciplinary Segregation**.

c. Denial of access to the law library must be:

- Supported by compelling security concerns;
- For the shortest period required for security; and
- Fully documented in the SMU housing logbook.

d. The facility administrator shall notify ICE/DRO every time access is denied, with documentation placed in the detention file.

19. Recreation. Recreation for detainees housed in the SMU shall be separate from the general population. As necessary or advisable to prevent assaults and reduce management problems, recreation for some individuals will be alone and separate from all other detainees.

a. The facility administrator shall develop and implement procedures to ensure that detainees who must be kept apart never participate in activities in the same location at the same time as detainees housed in the general population. For example, recreation for detainees in protective custody shall be separate from other detainees.

Nevertheless, detainees in the SMU shall be offered at least one hour of recreation per day, scheduled at a reasonable time, at least five days per week. Where cover is not provided to mitigate inclement weather, detainees shall be provided weather-appropriate equipment and attire.

b. The recreation privilege shall be denied or suspended only if the detainee's recreational activity would unreasonably endanger detainee safety or security. The case of a detainee denied recreation privileges shall be reviewed at least once each week, as part of the reviews required for all detainees in SMU status.

- As part of this process, the reviewer shall document whether the detainee continues to pose a threat to self, others, or facility security and, if so, why.
- The facility shall notify ICE/DRO when a detainee's denied recreation privileges exceeds 7 days.
- Such a denial of recreation privileges (for more than 7 days) requires the concurrence of the facility administrator and a health care professional. It is expected that such denials shall rarely occur, and only in extreme circumstances.

c. Ordinarily, a detainee may be denied recreation privileges only with the facility administrator's written authorization, documenting why the detainee poses an unreasonable risk even when recreating alone. When necessary to control an immediate situation for reasons of safety and security, SMU staff may deny an instance of recreation, upon verbal approval from the shift supervisor, and document the reasons for that denial in the unit logbook(s). In such a case, the supervisor may also require additional written documentation from the SMU staff for the facility administrator. When a detainee in an SMU is deprived of recreation (or any other usually authorized items or

activity), a report of the action shall be forwarded to the facility administrator.

Examples of such circumstances may include, but are not limited to:

1. A detainee segregated for specific administrative purposes,
 2. A detainee in protective custody, or
 3. A detainee whose mental and/or physical condition requires special handling and treatment by staff (for example, detainees who are drug or alcohol addicts or abusers, emotionally disturbed, mentally retarded, mentally ill, suicidal, disabled, or infirm).
- d. A detainee in **Disciplinary Segregation** may temporarily lose recreation privileges upon a disciplinary panel's written determination that he or she poses an unreasonable risk to the facility, him/herself, or others.

When his or her recreation privileges are suspended, the disciplinary panel or facility administrator shall provide the detainee with written notification, the reason(s) for the suspension, the duration of the suspension, and any conditions that must be met before the restoration of his or her privileges provided the requisite conditions are met.

20. Telephone Access. As detailed in the Detention Standard on **Telephone Access**, detainees in SMUs shall have access to telephones in a manner that is consistent with the special safety and security requirements of such units. Telephone access for legal calls will be provided, including calls to attorneys, other legal representatives, courts, government offices (including the Office of the Inspector General, Office for Civil rights, and Civil Liberties, DHS Joint Intake Center, and DHS Office of Internal Audit), and embassies or consulates, according to the facility schedule. Any denial of telephone access will be documented.

In general, any detainee in an SMU may be reasonably restricted from using or having access to a phone if that access is used for criminal purposes or would endanger any person, or if the detainee damages the equipment provided. In such instances, staff must clearly document why such restrictions are necessary to preserve the safety, security, and good order of the facility.

a. Administrative Segregation

Ordinarily, staff shall permit detainees in Administrative Segregation to have telephone access similar to detainees in the general population, but in a manner consistent with the special security and safety requirements of detainees in these units. This requirement applies to a detainee in Administrative Segregation pending a hearing because he or she has been charged with a rule violation, as well as a detainee in Administrative Segregation for other than disciplinary reasons (for example, protective custody, suicide risk, etc.).

b. Disciplinary Segregation

Detainees in Disciplinary Segregation may be restricted from using telephones to make general calls as part of the disciplinary process; however, even in Disciplinary Segregation, detainees shall have some telephone access for special purposes.

Ordinarily, staff shall permit detainees in Disciplinary Segregation to make direct or free Consular and legal calls as described in the Detention Standard on **Telephone Access**, except for compelling and documented reasons of safety, security, and good order.

21. Translation/Interpretation Services

Detainees will be provided translation or interpretation services while in the Special Management Unit to assist with their understanding of conditions of confinement as well as their rights and responsibilities.

22. Special Needs

Detainees in the SMU will be provided appropriate accommodations and professional assistance such as medical, therapeutic, or mental health treatment for special needs, as necessary.

C. Placement in Administrative Segregation

Administrative Segregation status is a non-punitive status in which restricted conditions of confinement are required only to ensure the safety of detainees or others, the protection of property, or the security or good order of the facility. For matters of safety and security, staff may have to take immediate action to control a detainee, including placement in Administrative Segregation. Examples include detainees who require protective custody, who cannot be placed in the local population because they are en route to another facility ("holdovers"), who are awaiting a disciplinary hearing, or who require separation for medical reasons.

Each facility shall develop and follow written procedures governing the management of its Administrative Segregation unit that are consistent with this Detention Standard. These procedures must document detailed reasons for placement of an individual in Administrative Segregation. Detainees must be provided with a copy of the Administrative Segregation Order.

Prior to the detainee's placement in Administrative Segregation, the facility administrator and security supervisor, or equivalent, shall review the case to determine whether Administrative Segregation is, in fact, warranted. The facility administrator may delegate to the security supervisor the authority to place a detainee in Administrative Segregation.

1. Reasons for Placement in Administrative Segregation. A detainee may be placed in Administrative Segregation when the detainee's continued presence in the general population poses a threat to life, property, self, staff, or other detainees, for the secure and orderly operation of the facility, for medical reasons, or other circumstances as set forth below. Some examples of incidents warranting a detainee's assignment to Administrative Segregation include, but are not limited to, the following:

(a) A detainee is awaiting an investigation or a hearing for a violation of facility rules. Pre-disciplinary hearing detention should be ordered only as necessary to prevent further violation of those rules or to protect the security and orderly operation of the facility. It is not to be used as a punitive measure.

Time served in pre-hearing detention may be deducted from any time ordered by the

Institutional Disciplinary Panel (IDP).

(b) A detainee is a threat to the security of the facility. The facility administrator may determine that a detainee's criminal record, past behavior at other institutions, behavior while in ICE/DRO detention, or other evidence is sufficient to warrant placement of the detainee in Administrative Segregation. Copies of records supporting this action shall be attached to the Administrative Segregation Order.

(c) A detainee requires protection. Protective Custody may be initiated at the detainee's request or by whoever first ordered his or her segregation to protect the detainee from harm. Each facility will develop procedures to consider continued placement in protective custody as well as provisions for release from protective custody when appropriate. Frequently, the types of detainees who require this type of treatment include, but are not limited to:

- Victims of detainee assaults;
- Detainee informants or witnesses - detainees who provide information to institutional staff or any law enforcement agency concerning improper or criminal activities by others;
- Sexual predators;
- Detainees who have been pressured by other detainees to participate in sexual activity;
- Detainees who request Protective Custody;
- Detainees who refuse to enter the general population because of alleged intimidation from other detainees;
- Detainees who refuse to return to the general population, but who do not provide the reason for refusal;
- Detainees who appear to be in danger of bodily harm; or
- Detainees who seek protection, claiming to be former law enforcement officers or to have held sensitive law enforcement positions, whether or not there is official information to verify the claim.

(d) The IDP may order a detainee into Administrative Segregation following Disciplinary Segregation after determining that releasing the detainee into the general population would pose a threat to the security and orderly operation of the facility. A detainee transferred from Disciplinary Segregation to Administrative Segregation shall enjoy the same privileges as all other detainees in Administrative Segregation.

(e) A medical professional who ordered a detainee removed from the general population shall complete and sign an Administrative Segregation Order (see below), unless the detainee is to stay in the medical department's isolation ward.

(f) A detainee is scheduled for release, removal, or transfer within 24 hours. Such segregation may be ordered for security reasons or for the orderly operation of the facility.

2. Administrative Segregation Order. A written order shall be completed and approved by a security supervisor before a detainee is placed in Administrative

Segregation, except when exigent circumstances make this impracticable. In such cases, an order shall be prepared as soon as possible. A copy of the order shall be given to the detainee within 24 hours, unless delivery would jeopardize the safety, security, or orderly operation of the facility.

- a. The facility administrator or designee shall complete the Administrative Segregation Order (Form I-885 or equivalent), detailing the reasons for placing a detainee in Administrative Segregation, before his or her actual placement.
- b. An Administrative Segregation Order is not required for a detainee awaiting removal, release, or transfer within 24 hours of its service.
- c. In an emergency, the detainee's placement in Administrative Segregation may precede the paperwork, which the facility administrator shall prepare as soon as possible after the detainee's placement.
- d. All memoranda, medical reports, and other relevant documents shall be attached to the Administrative Segregation Order.
- e. A copy of the completed Administrative Segregation Order shall be given to the detainee within 24 hours of placement in Administrative Segregation, unless delivery would jeopardize the safe, secure, or orderly operation of the facility.
- f. The order shall remain on file with the SMU until the detainee is returned to the general population.
- g. When the detainee is released from the SMU, the releasing officer shall indicate date and time of release on the Administrative Segregation Order. The completed order is then forwarded to the chief of security for inclusion into the detainee's detention file.
- h. If the segregation is ordered for protective custody purposes, the order shall state whether the detainee requested the segregation, and whether the detainee requests a hearing concerning the segregation.

3. Review of Detainee Status in Administrative Segregation. All facilities shall implement written procedures for the regular review of all detainees held in Administrative Segregation, consistent with the procedures specified below.

- a. A security supervisor shall conduct a review within 72 hours of the detainee's placement in Administrative Segregation to determine whether segregation is still warranted. The review shall include an interview with the detainee. A written record shall be made of the decision and the justification. The **Administrative Segregation Review** (Form I-885) shall be used for the review. If the detainee has been segregated for his or her own protection, but **not** at the detainee's request, the signature of the facility administrator or assistant facility administrator is required on the Form I-885 to authorize the alien's continued detention.
- b. A security supervisor shall conduct the same type of review after the detainee has spent seven days in Administrative Segregation, and every week thereafter, for the first 60 days and (at least) every 30 days thereafter.
- c. The review shall include an interview with the detainee, and a written record shall be made of the decision and its justification.
- d. When the reviewing authority concludes that the detainee should be removed from

Administrative Segregation, they shall submit that recommendation to the facility administrator (or designee) for approval.

e. A copy of the decision and justification for each review shall be given to the detainee, unless, in exceptional circumstances, this provision would jeopardize the facility's security. The detainee shall also be given an opportunity to appeal a review decision to a higher authority within the facility.

f. After seven consecutive days in Administrative Segregation, the detainee may exercise the right to appeal the conclusions and recommendations of any review conducted to the facility administrator. The detainee may use any standard form of written communication, for example, detainee request, to file the appeal.

g. If a detainee has been in Administrative Segregation for more than 30 days and objects to that status, the facility administrator shall review the case to determine whether that status should continue. This review shall take into account the detainee's views and shall result in a written record of the decision and its justification. A similar review shall take place every 30 days and each 30 days thereafter.

h. When a detainee has been held in Administrative Segregation for **more than 30 days**, the facility administrator shall notify the Field Office Director (FOD), who shall notify the ICE/DRO Assistant Director, Detention Management Division in writing.

i. When a detainee is held in Administrative Segregation for **more than 60 days**, the FOD shall notify in writing, the Deputy Assistant Director, Detention Management Division. The Deputy Assistant Director shall then consider whether it would be appropriate to transfer the detainee to a facility where s/he may be placed in the general population.

D. Placement in Disciplinary Segregation.

To provide detainees in the general population a safe and orderly living environment, facility authorities shall discipline anyone whose behavior does not comply with facility rules and regulations. Such discipline may involve temporary confinement in the SMU apart from the general population. A detainee may be placed in Disciplinary Segregation only by order of the Institutional Disciplinary Panel (IDP), or its equivalent, after a hearing in which the detainee has been found to have committed a prohibited act. Ultimately, the IDP may order the detainee's placement into Disciplinary Segregation, but only when alternative dispositions would inadequately regulate the detainee's behavior.

1. Duration. A maximum sanction of 60 days in Disciplinary Segregation shall apply to violations related to a single prohibited incident. After the first 30 days, and each 30 days thereafter, the facility administrator shall send a written justification to the FOD, who may decide to transfer the detainee to a facility where security is such that he or she could be placed in the general population.

2. Disciplinary Segregation Order. A written order shall be completed and signed by the chair of the IDP (or disciplinary hearing officer) before a detainee is placed into Disciplinary Segregation. A copy of the order shall be given to the detainee within 24 hours, unless delivery would jeopardize the safety, security, or the orderly operation of the facility or the safety of another detainee.

a. The IDP chairman shall prepare the **Disciplinary Segregation Order** (Form I-883 or equivalent), detailing the reasons for placing a detainee in Disciplinary Segregation, before his or her actual placement. All relevant documentation must be attached to the order.

b. A copy of the completed Disciplinary Segregation Order shall be given to the detainee within 24 hours of placement in Disciplinary Segregation, unless delivery would jeopardize the safe, secure, or orderly operation of the facility. The order shall be maintained on file in the SMU until the detainee is released from the SMU.

When the detainee is released from the SMU, the releasing officer shall indicate date and time of release on the Disciplinary Segregation Order, then forward the completed order to the chief of security for insertion into the detainee's detention file.

3. Review of Detainee Status in Disciplinary Segregation. All facilities shall implement written procedures for the regular review of all Disciplinary Segregation cases, consistent with the following procedures:

a. A security supervisor, or the equivalent, shall interview the detainee and review his or her status in Disciplinary Segregation every seven days to determine whether the detainee:

- Abides by all rules and regulations; and,
- Is provided showers, meals, recreation, and other basic living standards, as required by this Detention Standard.

b. The security supervisor shall document his or her findings after every review, by completing a **Disciplinary Segregation Review** (Form I-887).

- The security supervisor may recommend the detainee's early release from the SMU upon finding that time in Disciplinary Segregation is no longer necessary to regulate the detainee's behavior.
- An early-release recommendation must have the facility administrator's approval before the detainee may be returned to the general population.
- The security supervisor may shorten, but not extend, the original sanction.
- All review documents shall be placed in the detainee's detention file.
- At each formal review, the detainee shall be given a written copy of the reviewing officer's decision and the basis for his or her finding, unless it would result in a compromise of institutional security. If for some reason it can not be delivered, then the

detainee should be advised of the decision orally and the detention file should be so noted and the reasons identified in writing as to why the notice could not be provided in writing.

E. Logs and Records

1. Permanent SMU Log. A permanent log shall be maintained in the SMU to record all activities concerning the SMU detainees, such as the meals served, recreational time, and visitors.

In SPCs and CDFs, the SMU log shall record the detainee's name, A-number, housing location, date admitted, reasons for admission, tentative release date (for detainees in Disciplinary Segregation), the authorizing official, and date released.

2. Visitor's Log. *In SPCs and CDFs, a separate log shall be maintained in the SMU of all persons visiting the unit. This separate record shall include notation of:*

- *The time and date of the visit, and*
- *Any unusual activity or behavior of an individual detainee, with a follow-up memorandum sent through the facility administrator to the detainee's file.*

3. Individual Special Management Housing Unit Record. *In SPCs, **Special Management Housing Unit Record**, (Form I-888) shall be prepared immediately upon a detainee's placement in the SMU. CDFs and IGSA facilities shall use the Form I-888 or comparable form for this purpose as well.*

a. The special housing unit officer shall immediately record:

- *Whether the detainee ate, showered, recreated, and took any medication; and*
- *Any additional information, such as whether the detainee has a medical condition, or has exhibited suicidal/assaultive behavior.*
- *The officer that conducts the activity will print his/her name and sign the record.*

b. The facility medical officer shall sign each individual's record when he or she visits a detainee in the SMU. The housing officer shall initial the record after the medical visits are completed, but no later than the end of the shift.

c. A new Form I-888 must be created for each week the detainee is in the SMU. The completed weekly forms shall be retained at the SMU until the detainee is released from the SMU.

d. Upon a detainee's release from the SMU, the releasing officer shall attach the entire housing unit record related to that detainee to either the Administrative Segregation Order or Disciplinary Segregation Order and forward it to the chief of security for inclusion into the detainee's detention file.

Standard Approved:

James T. Hayes, Jr. /s/

12/5/2008

James T. Hayes, Jr.
Director
Office of Detention and Removal Operations

Date

ICE/DRO DETENTION STANDARD

DISCIPLINARY SYSTEM

I. PURPOSE AND SCOPE. This Detention Standard promotes a safe and orderly living environment for detainees by establishing a fair and equitable disciplinary system, requiring detainees to comply with facility rules and regulations, and imposing disciplinary sanctions to those who do not comply.

It applies to the following types of facilities housing ICE/DRO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by DRO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs and CDFs. IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document may be defined in the separate **Definitions** Standard.

II. EXPECTED OUTCOMES. The expected outcomes of this Detention Standard are:

1. Detainees will be informed of facility rules and regulations, prohibited acts, disciplinary sanctions that may be imposed, their rights in the disciplinary system and the procedure for appealing disciplinary findings.
2. Each facility will have graduated severity scales of prohibited acts and disciplinary consequences.
3. Where permitted by facility policy, staff will informally settle minor transgressions by mutual consent, whenever possible.
4. Staff who witness a prohibited act that cannot or should not be resolved informally, or have reason to suspect that a detainee has engaged in a prohibited act, will prepare a clear, concise, and complete Incident Report.
5. Each Incident Report will be objectively and impartially investigated and reported, ordinarily by a person of supervisory rank.
6. When appropriate, a serious incident that may constitute a criminal act will be referred to the proper investigative agency, and the administrative investigation will be suspended, pending the outcome of that referral.
7. At each step of the disciplinary and appeal process, the detainee will be advised of his or her rights in a language he or she understands, and translation or interpretation services will be provided as needed.
8. A Unit Disciplinary Committee (UDC) will further investigate and adjudicate the incident and may impose minor sanctions or refer the matter to a higher level disciplinary panel.

9. An Institution Disciplinary Panel (IDP) will conduct formal hearings on Incident Reports referred from UDCs and may impose higher level sanctions for "Greatest" and "High" level prohibited acts.
10. Detainees before the IDP will be afforded a staff representative, upon request, or automatically if the detainee is illiterate, has limited English language skills or otherwise needs special assistance.
11. Actions of the IDP will be reviewed by the facility administrator, who may concur with the findings and sanctions or modify them.
12. At all steps in the disciplinary process, any sanctions imposed will be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future.
13. All steps of the disciplinary process will be done within the required time limits.
14. At all steps of the disciplinary process, accurate and complete records will be maintained. The detainee will receive copies of all reports, exhibits, and other documents considered or generated in the hearing process, except insofar as the disclosure of such documents may pose an imminent threat to the safety and security of the facility staff or other detainees, or if the document or other evidence is otherwise protected from disclosure.
15. If a detainee is found not guilty at any stage of the disciplinary process, the incident records will not be placed or retained in the detainee's file, even if they are retained elsewhere for statistical or historical purposes.
16. Detainees will be able to appeal disciplinary decisions through a formal grievance system. No detainee will be harassed, disciplined, punished or otherwise retaliated against for filing a complaint or grievance.
17. Detainees shall be afforded the following rights: the right to protection from abuse, the right to freedom from discrimination, the right to pursue a grievance, the right to correspond with persons or organizations and the right to due process.
18. The applicable content and procedures in this standard will be communicated to the detainee in a language or manner which the detainee can understand.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Disciplinary Policy** dated 9/20/2000.

IV. REFERENCES

American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-3A-01, 3A-02, 6B-05, 6C-01 through 6C-19.

V. EXPECTED PRACTICES

A. Guidelines

1. Detainees will receive translation or interpretation services throughout the investigative, disciplinary, and appeal process, including accommodation for the hearing impaired.

2. Each facility holding ICE/DRO detainees in custody shall have a detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedures. Written disciplinary policy and procedures shall clearly define detainee rights and responsibilities. The policy, procedures and rules shall be reviewed at least annually.

3. Disciplinary action may not be capricious or retaliatory nor based on race, religion, national origin, sex, sexual orientation, disability, or political beliefs.

4. Staff may not impose or allow imposition of the following sanctions: corporal punishment; deprivation of food services to include use of Nutraloaf or "food loaf"; deprivation of clothing, bedding, or items of personal hygiene; deprivation of correspondence privileges; deprivation of legal access and legal materials; or deprivation of physical exercise unless such activity creates a documented unsafe condition.

5. The facility shall not hold a detainee accountable for his or her conduct if a medical authority finds him or her mentally incompetent. For purposes of these standards, a mentally incompetent individual is defined as an individual who is unable to appreciate the difference between appropriate and inappropriate behavior, or between "right" and "wrong." Such an individual is not capable of acting in accordance with those norms and therefore, cannot be held responsible for his or her "wrongful" actions.

Also, a person who cannot assist in his or her own defense because he or she lacks the ability to understand the nature of the disciplinary proceedings shall be considered incompetent. Disciplinary proceedings against such a detainee shall be postponed until such time as the detainee is able to understand the nature of the disciplinary proceedings and to assist in his or her own defense. If the detainee's mental status does not improve within a reasonable amount of time, the officer must find the detainee incompetent to assist in his or her own defense and note such finding on the Incident Report.

B. Notice to Detainees

The Detainee Handbook, or supplement, issued to each detainee upon admittance, shall provide notice of the facility's rules of conduct and prohibited acts, the sanctions imposed for violations of the rules, the disciplinary severity scale, the disciplinary process and the procedure for appealing disciplinary findings. Detainees shall have the following rights and shall receive notice of them in the Handbook:

- The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment;
- The right of freedom from discrimination based on race, religion, national origin, sex, sexual orientation, handicap, or political beliefs;
- The right to pursue a grievance in accordance with procedures provided in the Handbook without fear of retaliation;
- The right to pursue a grievance in accordance with the Grievance System Detention Standard and procedures provided in the handbook.

- The right to correspond with persons or organizations, consistent with safety, security, and the orderly operation of the facility; and
- The right to due process, including the prompt resolution of a disciplinary matter.

Copies of the rules of conduct, rights, and disciplinary sanctions shall be provided to all detainees and posted in English, Spanish, and/or other languages spoken by significant numbers of detainees, as follows:

1. Disciplinary Severity Scale
2. Prohibited Acts
3. Sanctions

C. Disciplinary Severity Scale and Prohibited Acts

All facilities shall have graduated scales of offenses and disciplinary consequences as provided in this section.

SPCs and CDFs shall adopt, without alteration, the offense categories and disciplinary sanctions set forth in this section.

Prohibited acts are divided into four categories: Greatest, High, Moderate, and Low Moderate. The sanctions authorized for each category shall be imposed only if the detainee is found to have committed a prohibited act. (See Attachment A -- Prohibited Acts and Sanctions.)

Greatest offenses: *The IDP shall impose and execute at least one sanction in the A through E range. Additional sanctions (A through G) may be imposed and either executed or suspended, at the discretion of the panel. The IDP may impose and execute sanctions F and G only in conjunction with sanction A, B, C, D, and/or E.*

High offenses: *The IDP shall impose and execute at least one sanction in the A through M range. Additional sanctions (A through M) may be imposed or may be suspended at the discretion of the panel.*

High Moderate offenses: *The IDP shall impose at least one sanction in the A through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.*

Low Moderate offenses: *The IDP shall impose at least one sanction in the E through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.*

D. Incident Reports

Officers who witness a prohibited act or have reason to suspect one has been committed shall prepare and submit an Incident Report. All Incident Reports must state the facts clearly, precisely, and concisely, omitting no details that could prove significant. Reports also shall identify the officer(s), the detainee(s), and all witnesses to the incident.

ICE/DRO pre-approval is required for use of ICE Incident Report forms in CDFs and IGSA facilities.

In SPCs and CDFs, minor transgressions shall be settled informally and by mutual consent whenever possible. If, however, the officer involved thinks an informal resolution is inappropriate or unattainable, he or she shall prepare an Incident Report and Notice of Charges and submit it to the appropriate supervisor before the end of the assigned shift.

The Incident Report shall cite the relevant rule or standard without quoting it in its entirety. (For example, for destruction of government property, the report would cite, briefly, "Code 218–Destroying Government Property and specify the exact manner in which the detainee is alleged to have violated the cited rule or standard including all relevant facts as to time, dates, and places.")

If the officer observes anything unusual in the detainee's behavior or demeanor, he or she shall so note in the report. The reporting officer shall also list all staff, contract officers or detainee witnesses to the incident, and the disposition of any physical evidence (weapons, property, etc.) relating to the incident. The reporting officer shall sign the report and include title, date and time the report was signed. The shift supervisor shall review all Incident Reports before going off duty.

E. Investigations

IGSAs shall have procedures in place to ensure that all Incident Reports are investigated within 24 hours of the incident.

The investigating officer shall have supervisory rank or higher (unless prevented by personnel shortages) and shall have had no prior involvement in the incident, either as witness or officer at the scene. If an officer below supervisory rank conducts the investigation, the shift supervisor shall review his or her report(s) for accuracy and completeness and sign them.

In SPCs and CDFs, the officer designated to investigate the incident is responsible for completing the necessary interviews, collecting evidence, and submitting written reports.

The investigating officer shall:

- 1. Commence the investigation within 24 hours of receipt of the Incident Report.*
- 2. Advise the detainee of the right to remain silent at every stage of the disciplinary process and ensure he or she has a complete listing of detainee rights.*
- 3. Provide the detainee a copy of the Incident Report and notice of charges at least 24 hours before the start of any disciplinary proceedings.*
- 4. Terminate the administrative investigation, if the incident is under investigation on different grounds (that is, the prohibited act is under criminal investigation), unless and until the agency with primary jurisdiction concludes its investigation or indicates it will not pursue the matter.*

Contraband that may be evidence in connection with a violation of a criminal statute shall be preserved, inventoried, controlled, and stored so as to

*maintain and document the chain of custody. The documentation shall be reported to the appropriate law enforcement authority for action and possible seizure and prosecution. See **Preservation of Evidence** in the Detention Standard on **Searches of Detainees**.*

5. *Advise the detainee of his or her right, if applicable, to an initial hearing before the Unit Disciplinary Committee (UDC) within 24 hours of his or her notification of charges.*
6. *Record personal observances and other potentially material information.*
7. *Prepare a factual report of the investigation, including the location or disposition of any physical evidence.*
8. *Forward to the UDC all reports relevant to the disciplinary hearing – but do **not** provide a copy to the detainee at this stage of the disciplinary process, except for a copy of the Incident Report as instructed in #4 above.*

F. Unit Disciplinary Committee (UDC)

All facilities shall establish an intermediate level of investigation/adjudication process to adjudicate low or moderate infractions. They shall also ensure that the detainee is afforded all the UDC rights listed below.

The UDC administering unit discipline shall be comprised of one to three members, at least one of whom is a supervisor.

The UDC shall not include the reporting officer, the investigating officer, or an officer who witnessed or was directly involved in the incident. Only in the unlikely event that practically every available officer witnessed or was directly involved in the incident may an exception occur.

The UDC shall conduct hearings and, to the best extent possible, informally resolve cases involving High Moderate or Low Moderate charges in accordance with the list of charges and related sanctions noted as Attachment A of this Standard. Unresolved cases and cases involving serious charges are forwarded to the Institution Disciplinary Panel.

The UDC shall have authority to:

1. Conduct hearings and resolve incidents involving High Moderate or Low Moderate charges.
2. Consider written reports, statements, and physical evidence.
3. Hear pleadings on the part of the detainee.
4. Make findings that a detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence.
5. Impose minor sanctions "E" through "M" in accordance with the table of prohibited acts and associated sanctions later in this document.

The detainee in UDC proceedings shall have the right to:

1. Remain silent at any stage of the disciplinary process.
2. Due process, which includes:

- Attending the entire hearing (excluding committee deliberations);
- Waiving the right to appear; or
- Having a UDC hearing within 24 hours after the conclusion of the investigation.

If security considerations prevent detainee attendance, the committee must document the security considerations and, to the extent possible, facilitate the detainee's participation in the process via telephonic testimony, the submission of documents, written statements, or questions to be asked of witnesses.

3. Present statements and evidence, including witness testimony on his or her own behalf.
4. Appeal the committee's determination through the detainee grievance process.

The UDC shall:

1. Advise the detainee of his or her rights at the hearing.
2. Refer to the IDP any incident involving a serious violation associated with an A-through-D-range sanction. This includes code violations in the "Greatest" and "High" categories (100s and 200s).
3. Serve the detainee with:
 - A copy of the UDC decision which must contain the reason for the disposition and sanctions imposed; or
 - Written notification of charges and hearing before the IDP.
4. If the detainee's case is being referred to the IDP, advise the detainee, in writing, of
 - The right to call witnesses and present evidence before the IDP; and
 - The right to a staff representative before the IDP.

G. Staff Representation

In SPCs and CDFs, the facility administrator shall, upon the detainee's request, assign a staff representative to help prepare a defense. This help shall be automatically provided for detainees who are illiterate, have limited English-language skills, are without means of collecting and presenting essential evidence, or are in administrative or disciplinary segregation.

1. *A staff representative must be a full-time employee.*
2. *Because of the potential conflict of interest, the facility administrator, members of the IDP and of the UDC initially involved in the case, eyewitnesses, the reporting and investigating officers, and anyone else with a stake in the outcome shall not act as staff representative.*
3. *The detainee may select his or her staff representative, barring those identified in #2 above.*
4. *The IDP shall arrange for the presence of the staff representative selected by the*

detainee. If that staff member declines or is unavailable, the detainee may:

- *Select a different representative;*
 - *Wait for the unavailable staff member to become available (within a reasonable period); or,*
 - *Proceed without a staff representative.*
5. *A staff member who declines to serve must state the reason on the staff representative form.*
 6. *If several staff decline, the facility administrator shall assign one.*
 7. *The staff representative shall be free to speak to witnesses and to present evidence on the detainee's behalf, including any mitigating circumstances. The staff representative must act in good faith on behalf of the charged detainee, and interview witnesses and obtain documentary evidence as is requested by the detainee or is otherwise reasonably seen as relevant to the defense of the charges or in mitigation of the charges.*
 8. *The IDP shall allow the staff representative enough time to speak with the detainee and interview witnesses prior to the commencement of the proceeding. The IDP may grant a request for extension of time if required for an adequate defense.*
 9. *The IDP shall establish the reliability of information provided by a confidential source before considering it in the disciplinary proceedings.*
 10. *The IDP may withhold the confidential source's identity from the staff representative. While the staff representative may challenge the substance of any confidential information the IDP discloses, he or she may not question its reliability (which is pre-established by the IDP).*
 11. *When the detainee cannot effectively present his or her own case, the facility administrator shall appoint a staff representative, even if not requested by the detainee.*

H. Institution Disciplinary Panel

All facilities that house ICE/DRO detainees shall have a disciplinary panel to adjudicate detainee Incident Reports. Only the disciplinary panel may place a detainee in disciplinary segregation.

The term "Institution Disciplinary Panel" or "IDP" refers either to a **three-person panel** appointed by the facility administrator, or a **one-person disciplinary hearing officer**, depending on the practice at the facility.

The panel may not include the reporting officer, the investigating officer, any member of the referring UDC, or anyone who witnessed or was directly involved in the incident. Exceptions may occur only if the number of officers required for the panel cannot be filled due their direct involvement in the incident. **The IDP shall have authority to:**

1. Conduct hearings on all charges and allegations referred by the UDC.
2. Call witnesses to testify.

3. Consider written reports, statements, physical evidence, and oral testimony.
4. Hear pleadings by detainee and staff representative.
5. Make findings that the detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence.
6. Impose sanctions as listed and authorized in each category.

The detainee in IDP proceedings shall have the right to:

1. Remain silent at any stage of the disciplinary process.
2. Due process, which includes:
 - Attending the entire hearing (excluding committee deliberations);
 - Waiving the right to appear; or
 - Having an IDP hearing within 24 hours after the conclusion of the investigation.

If security considerations prevent the detainee's attendance, the committee must document the security considerations and, to the extent possible, facilitate the detainee's participation in the process by telephonic testimony, the submission of documents, written statements or questions to be asked of witnesses.

3. Present statements and evidence, including witness testimony, on his or her behalf.
4. Appeal the committee's determination through the detainee grievance process.

The IDP shall:

1. Verify that the detainee has been advised of and afforded his or her rights, as provided above.
2. Remind the detainee of his or her right to a staff representative, and provide one if requested.
3. Advise the detainee of his or her right to waive the hearing and admit having committed the offense.
4. Conduct the hearing on the first business day after receiving the UDC referral, unless the detainee waives the 24-hour notification provision and requests an immediate hearing. In cases where a hearing is delayed, the reason(s) must be documented (for example, a continuing investigation of facts, unavailability of one or more essential witnesses, etc.) and approved by the facility administrator. If the detainee is being held in segregation, the delay shall not exceed 72 hours, barring an emergency.

5. Prepare a written record of any hearing. This record must show that the detainee was advised of his or her rights. It must also document the evidence considered by the Panel and subsequent findings and the decision and sanctions imposed, along with a brief explanation.
6. Forward the entire record to the facility administrator, who may (a) concur; (b) terminate the proceedings; or (c) impose more severe or more lenient sanctions.
7. Serve the detainee with written notification of the decision, which must contain the reason for the decision.

I. Confidential Information

When a decision relies on information from a confidential source, the UDC or IDP shall disclose as much of the confidential information as may be disclosed without jeopardizing the safety and security of facility staff and other persons, and shall include in the hearing record the factual basis for finding the information reliable.

J. Postponement of Disciplinary Proceedings

All facilities shall permit hearing postponements or continuances under certain circumstances.

In SPCs and CDFs, circumstances justifying the postponement or continuance of a hearing might include: defense preparation, physical or mental illness, security, escape, disciplinary transfer, deportation, or pending criminal prosecution.

An uncooperative detainee may also cause a delay in the proceedings, either because of inappropriate behavior during the hearing process or a refusal to participate in a productive manner.

K. Duration of Sanctions

The duration of sanctions shall be within established limits. Neither the panel recommending sanctions nor the *facility administrator* making the final decision shall impose sanctions arbitrarily, beyond these limits.

1. Sanctions range from the withholding of privilege(s) to segregation. Time in segregation or the withholding of privileges after a hearing shall generally not exceed 60 days per violation.
2. Time served in segregation pending the outcome of the proceedings may be credited to the number of days to be spent in the segregation unit after an adverse decision is announced.
3. The disciplinary report and accompanying documents are not placed in the file of a detainee who is found not guilty. The facility, however, may retain the material in its own files for Institution statistical or historical purposes.
4. A detainee may be removed from segregation if a health care professional concludes that continued segregation is detrimental to the detainee's medical or mental health.

L. Documents

All documents relevant to the incident, subsequent investigation and hearing(s), shall be completed and distributed in accordance with facility procedures.

In SPCs and CDFs, documents shall be prepared and distributed as follows:

Incident Report/Notice of Charges

The officer shall prepare an Incident Report and submit it to the ICE/DRO or CDF supervisor immediately after the incident takes place. If the incident is resolved informally, the officer shall so note on the original report, which shall then be forwarded to the chief of security.

If the UDC is to be involved, the supervisor shall serve the detainee with a copy of the Notice of Charges upon completion of the investigation, no less than 24 hours before the UDC hearing.

The UDC receives the original copy.

If the UDC hears the matter, the ranking member of that committee shall serve the detainee with a copy of the Incident Report/Notice of Charges indicating their decision. The UDC, upon conclusion of its proceedings, shall forward the entire record to either the chief of security or the IDP, as appropriate.

Investigation Report

*Original – submitted to the UDC.
Detainee does not receive a copy*

UDC Report of Findings and Action

*Original – served on the detainee after the committee issues its findings
Copy – to the detainee detention file (guilty finding only)*

Notice of IDP Hearing

*Original – served on detainee
Copy – detainee detention file*

Detainee Rights at IDP Hearing

*Original – served on detainee
Copy – facility detention file*

IDP Report

*Original – detainee detention file
Copy – detainee*

Standard Approved:

James T. Hayes, Jr. /s/

12/5/2008

James T. Hayes, Jr.
Director
Office of Detention and Removal Operations

Date

Attachment A
Prohibited Acts and Sanctions

"GREATEST" OFFENSE CATEGORY

PROHIBITED ACTS

100 Killing

101 Assaulting any person (includes sexual assault)

102 Escape from escort; escape from a secure facility

103 Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of greatest severity, e.g., a riot or an escape; otherwise the charge is classified as Code 218 or 321).

104 Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive, escape tool, device, or ammunition

105 Rioting

106 Inciting others to riot

107 Hostage-taking

108 Assaulting a staff member or any law enforcement officer

109 Threatening a staff member or any law enforcement office with bodily harm

*198 Interfering with a staff member in the performance of duties (conduct must be of the greatest severity). This charge is to be used only if another charge of greatest severity is not applicable.

*199 Conduct that disrupts or interferes with the security or orderly running of the facility (conduct must be of the greatest severity). This charge is to be used only if another charge of greatest severity is not applicable.

"GREATEST" OFFENSE CATEGORY SANCTIONS

A. Initiate criminal proceedings

B. Disciplinary transfer (recommend)

C. Disciplinary Segregation (up to 60 days)

D. Make monetary restitution, if funds are available

E. Loss of privileges, e.g., commissary, vending machines, movies, recreation, etc

Attachment A
Prohibited Acts and Sanctions

"HIGH" OFFENSE CATEGORY

PROHIBITED ACTS

- 200 Escape from unescorted activities open or secure facility, proceedings without violence
- 201 Fighting, boxing, wrestling, sparring, and any other form of physical encounter, including horseplay, that causes or could cause injury to another person; except when part of an approved recreational or athletic activity
- 202 Possession or introduction of an unauthorized tool
- 203 Loss, misplacement, or damage of any restricted tool
- 204 Threatening another with bodily harm
- 205 Extortion, blackmail, protection, demanding or receiving money or anything of value in return for protection against others, avoiding bodily harm, or avoiding a threat of being informed against
- 206 Engaging in sexual acts
- 207 Making sexual proposals or threats
- 208 Wearing a disguise or mask
- 209 Tampering with or blocking any lock device
- 210 Adulteration of food or drink
- 211 Possession, introduction, or use of narcotics, narcotic paraphernalia, or drugs not prescribed for the individual by the medical staff
- 212 Possessing an officer's or staff member's clothing
- 213 Engaging in or inciting a group demonstration
- 214 Encouraging others to participate in a work stoppage or to refuse to work
- 215 Refusing to provide a urine sample or otherwise cooperate in a drug test
- 216 Introducing alcohol into the facility
- 217 Giving or offering an official or staff member a bribe or anything of value
- 218 Giving money to, or receiving money from, any person for an illegal or prohibited purpose, such as introducing/conveying contraband
- 219 Destroying, altering, or damaging property (government or another person's) worth more than \$100
- 220 Being found guilty of any combination of three or more high moderate or low moderate offenses within 90 days
- 221 Signing, preparing, circulating, or soliciting support for prohibited group petitions

Attachment A
Prohibited Acts and Sanctions

222 Possessing or introducing an incendiary device, e.g., matches, a lighter, etc.

223 Any act that could endanger person(s) and/or property

*298 Interfering with a staff member in the performance of duties (conduct must be of highest severity). This charge is to be used only when no other charge of highest severity is applicable.

*299 Conduct that disrupts or interferes with the security or orderly operation of the facility (conduct must be of highest severity). This charge is to be used only when no other charge of highest severity is applicable.

*When the prohibited act is interfering with a staff member in the performance of duties (Code 198, 298, 398 or 498) or conduct that disrupts (Code 199, 299, 399 or 499), the Disciplinary Committee should specify in its findings the severity-level of the conduct, citing a comparable offense in that category. For example, "We find the act of to be of high severity, most comparable to Code 213, "engaging in a group demonstration."

"HIGH" OFFENSE CATEGORY SANCTIONS

- A. Initiate criminal proceedings
- B. Disciplinary transfer (recommend)
- C. Disciplinary Segregation (up to 30 days)
- D. Make monetary restitution, if funds are available
- E. Loss of privileges, e.g., commissary, vending machines, movies, recreation, etc
- F. Change housing
- G Remove from program and/or group activity
- H. Loss of job
- I. Impound and store detainee's personal property
- J. Confiscate contraband
- K. Restrict to housing unit
- M. Warning

Attachment A
Prohibited Acts and Sanctions

“HIGH MODERATE” OFFENSE CATEGORY

PROHIBITED ACTS

- 300 Indecent exposure
- 301 Stealing (theft)
- 302 Misuse of authorized medication
- 303 Loss, misplacement, or damage of a less restricted tool.
- 304 Lending property or other item of value for profit/increased return
- 305 Possession of item(s) not authorized for receipt or retention; not issued through regular channels
- 306 Refusal to clean assigned living area
- 307 Refusing to obey the order of a staff member or officer's (may be categorized and charged as a greater or lesser offense, depending on the kind of disobedience: continuing to riot is Code 105--Rioting; continuing to fight Code 201--Fighting; refusing to provide a urine sample, Code 215.
- 308 Insolence toward a staff member
- 309 Lying or providing false statement to staff
- 310 Counterfeiting, forging, or other unauthorized reproduction of money proceedings or other official document or item, e.g. security document, identification card, etc. (may be categorized as greater or lesser offense, depending on the nature and purpose of the reproduction, e.g., counterfeiting release papers to effect escape--Code 102 or 200).
- 311 Participating in an unauthorized meeting or gathering
- 312 Being in an unauthorized area
- 313 Failure to stand count
- 314 Interfering with count
- 315 Making, possessing, or using intoxicant(s)
- 316 Refusing a breathalyzer test or other test of alcohol consumption
- 317 Gambling
- 318 Preparing or conducting a gambling pool
- 319 Possession of gambling paraphernalia
- 320 Unauthorized contact with public
- 321 Giving money or another item of value to, or accepting money or another item of value from anyone, including another detainee, without staff authorization

Attachment A
Prohibited Acts and Sanctions

322 Destroying, altering, or damaging property (government or another person's) person's) worth more than \$100

*398 Interfering with a staff member in the performance of duties (offense must be of high moderate severity). This charge to be used only when no other charge in this category is applicable.

*399 Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of high moderate severity). This charge is to be used only when no other charge in this category is applicable.

NOTE: Any combination of high moderate and low moderate offenses during a 90-day period shall constitute a high offense.

"HIGH MODERATE" OFFENSE CATEGORY SANCTIONS

- A. Initiate criminal proceedings
- B. Disciplinary transfer (recommend)
- C. Disciplinary Segregation (up to 72 hours)
- D. Make monetary restitution, if funds are available
- E. Loss of privileges, e.g. commissary, vending machines, movies, recreation, etc
- F. Change housing
- G Remove from program and/or group activity
- H. Loss of job
- I. Impound and store detainee's personal property
- J. Confiscate contraband
- K. Restrict to housing unit
- L. Reprimand
- M. Warning

Attachment A
Prohibited Acts and Sanctions

“LOW MODERATE” OFFENSE CATEGORY

PROHIBITED ACTS

- 400 Possession of property belonging to another person
- 401 Possessing unauthorized clothing
- 402 Malingering, feigning illness
- 403 Smoking where prohibited
- 404 Using abusive or obscene language
- 405 Tattooing, body piercing, or self-mutilation
- 406 Unauthorized use of mail or telephone (with restriction or temporary suspension of the abused privileges often the appropriate sanction)
- 407 Conduct with a visitor in violation of rules and regulations (with restriction or temporary suspension of visiting privileges often the appropriate sanction)
- 408 Conducting a business
- 409 Possession of money or currency, unless specifically authorized
- 410 Failure to follow safety or sanitation regulations
- 411 Unauthorized use of equipment or machinery
- 412 Using equipment or machinery contrary to posted safety standards
- 413 Being unsanitary or untidy, failing to keep self and living area in accordance with posted standards
- 498 Interfering with a staff member in the performance of duties (offense must be of low moderate severity). This charge is to be used only when no other charge in this category is applicable.
- *499 Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of low moderate severity). This charge is to be used only when no other charge in this category is applicable.

Attachment A
Prohibited Acts and Sanctions

“LOW MODERATE” OFFENSE CATEGORY SANCTIONS

- E. Loss of privileges, commissary, vending machines, movies, recreation, etc
- F. Change housing
- G Remove from program and/or group activity
- H. Loss of job
- I. Impound and store detainee’s personal property
- J. Confiscate contraband
- K. Restrict to housing unit
- L. Reprimand
- M. Warning

ICE/DRO DETENTION STANDARD

VOLUNTARY WORK PROGRAM

I. PURPOSE AND SCOPE. This Detention Standard provides detainees opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of safety, security and good order.

While not legally required to do so, ICE/DRO affords working detainees basic Occupational Safety and Health Administration (OSHA) protections.

This Detention Standard applies to the following types of facilities housing DRO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by DRO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs and CDFs. IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document may be defined in the separate **Definitions** Standard.

II. EXPECTED OUTCOMES. The expected outcomes of this Detention Standard are:

1. Detainees may have opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of safety, security, and good order.
2. Detainees will be able to volunteer for work assignments but otherwise not be required to work, except to do personal housekeeping.
3. Essential operations and services will be enhanced through productivity from detainees.
4. The negative impact of confinement will be reduced through less idleness, improved morale and fewer disciplinary incidents.
5. Detainee working conditions will comply with all applicable federal, state, and local work safety laws and regulations.
6. There will be no discrimination regarding voluntary work program access based on any detainee's race, religion, national origin, gender, sexual orientation, or disability.
7. The applicable contents and procedures in this Standard will be communicated to the detainee in a language or manner which the detainee can understand.

III. DIRECTIVES AFFECTED. This Detention Standard replaces **Voluntary Work Program** dated 9/20/2000.

This Detention Standard incorporates the requirements regarding detainees' being assigned to work outside of a facility's secure perimeter originally communicated via a memorandum to all Field Office Directors from the Acting Director of U.S. Immigration and Customs Enforcement (2/2/2004).

IV. REFERENCES

American Correctional Association 4th Edition, Standards for Adult Detention Facilities: 4-ALDF-5C-06, 5C-08, 5C-11(M), 6B-02.

Environmental Health and Safety National Detention Standard

Food Service National Detention Standard

V. EXPECTED PRACTICES

A. Voluntary Work Program

Detainees who are physically and mentally able to work shall be provided the opportunity to participate in any voluntary work program.

The detainee's classification level shall determine the type of work assignment for which he/she is eligible.

Level 3 detainees shall not be given work opportunities outside their housing units/living areas.

B. Work Outside the Secure Perimeter

ICE detainees may not work outside the secure perimeter of local jails and facilities used under Intergovernmental Service Agreements.

In SPCs and CDFs, only detainees classified as Level 1 (or the facility's equivalent "Low" custody designation) may work outside the secure perimeter on facility grounds. They must be directly supervised at a ratio of not less than one staff member to four detainees. The detainees shall be within sight and sound of that staff member at all times.

C. Personal Housekeeping Required

Work assignments are voluntary; however, all detainees are responsible for personal housekeeping.

In SPCs and CDFs, detainees are required to maintain their immediate living areas in a neat and orderly manner by:

- *Making their bunk beds daily,*
- *Stacking loose papers,*
- *Keeping the floor free of debris and dividers free of clutter, and*

- *Not hanging/draping clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures, or other furniture.*

D. Detainee Selection

The facility administrator shall develop site-specific rules for selecting work detail volunteers. These site-specific rules will be recorded in a facility procedure that will include a voluntary work program agreement. The voluntary work program agreement will document the facility's program and will be in compliance with this Detention Standard.

In SPCs and CDFs, the primary factors in hiring a detainee as a worker shall be his or her classification level and the specific requirements of the job:

- *Staff shall present the detainee's name and A-number to the shift supervisor or the requesting department head.*
- *The shift supervisor or department head shall review the detainee's classification and other relevant documents in the detainee's detention file and/or A-file.*
- *The shift supervisor or department head shall assess the detainee's language skills as it affects the detainee's ability to perform the specific requirements of the job under supervision. To the extent possible, work opportunities should be provided to detainees who are able to communicate with supervising staff effectively and in a manner that does not compromise safety and security.*
- *Inquiries to staff about the detainee's attitude and behavior may be used as a factor in the supervisor's selection.*

*Staff shall explain the rules and regulations as well as privileges relating to the detainee worker's status. The detainee is required to sign a **voluntary work program agreement** before every new assignment. Completed agreements shall be filed in the detainee's detention file*

E. Special Details

Detainees may volunteer for temporary work details that occasionally arise. The work, which generally lasts from several hours to several days, may involve such tasks as digging trenches, removing topsoil and other labor-intensive work.

F. Discrimination in Hiring Prohibited

Detainees shall not be denied voluntary work opportunities on the basis of such factors as a detainee's race, religion, national origin, gender, sexual orientation or disability.

G. Physically and Mentally Challenged Detainees

While medical or mental health restrictions may prevent some physically or mentally challenged detainees from working, those with less severe disabilities shall have the opportunity to participate in the voluntary work program in appropriate work assignments.

- The selecting official must consider the precise limitations of a disabled individual before rejecting that individual for selected work assignments.

- Expediency or convenience is insufficient justification to reject or “pigeonhole” a detainee who, with reasonable accommodation, can perform essential functions of the work assignment.
- In disputed cases, the selecting official shall consult medical personnel to ascertain the detainee's suitability for a given project.

H. Hours of Work

Detainees who participate in the volunteer work program are required to work according to a fixed schedule.

In SPCs and CDFs, the normal scheduled workday for a detainee employed full time is a maximum of 8 hours. Detainees shall not be permitted to work in excess of 8 hours daily, 40 hours weekly.

Unexcused absences from work or unsatisfactory work performance may result in removal from the voluntary work program.

I. Number of Details in One Day

The facility administrator may restrict the number of work details permitted a detainee during one day.

In SPCs and CDFs, a detainee may participate in only one work detail per day.

J. Facilities That Detain Criminal Aliens

If the facility cannot establish the classification level in which the detainee belongs, the detainee shall be ineligible for the voluntary work program.

K. Compensation

Detainees shall receive monetary compensation for work completed in accordance with the facility's standard policy.

In SPCs and CDFs, the compensation is \$1.00 per day. Ordinarily, it is to be paid daily, unless the facility has a system in place that ensures detainees receive the pay owed them before being transferred or released.

L. Removal of Detainee from Work Detail

A detainee may be removed from a work detail for such causes as:

- Unsatisfactory performance;
- Disruptive behavior, threats to security, etc.;
- Physical inability to perform all functions required by the job, whether because of a lack of strength or a medical condition;
- Prevention of injuries to the detainee;
- A removal sanction imposed by the Institutional Disciplinary Panel for an infraction of a facility rule, regulation, or policy.

When a detainee is removed from a work detail, the facility administrator shall place written documentation of the circumstances and reasons in the detainee detention file.

M. Detainee Responsibility

The facility administrator shall establish procedures for informing detainee volunteers about on-the-job responsibilities and reporting procedures.

In SPCs and CDFs, the detainee is expected to be ready to report for work at the required time and may not leave an assignment without permission.

- The detainee shall perform all assigned tasks diligently and conscientiously.
- The detainee may not evade attendance and performance standards in assigned activities or encourage others to do so.
- The detainee shall exercise care in performing assigned work, using safety equipment and taking other precautions in accordance with the work supervisor's instructions.
- In the event of a work-related injury, the detainee shall notify the work supervisor who shall immediately implement injury response procedures.

N. Detainee Training and Safety

All detention facilities shall comply with all applicable health and safety regulations and standards.

The facility administrator shall ensure that all department heads develop and institute, in collaboration with the facility's safety/training officer, appropriate training for all detainee workers.

1. *In SPCs and CDFs the voluntary work program shall operate in compliance with:*

- *Occupational Safety and Health Administration (OSHA) regulations.*
- *National Fire Protection Association 101 Life Safety Code*
- *American Correctional Association Standards for Adult Local Detention Facilities, current edition*
- *International Council Codes (ICC)*

Each facility administrator's designee is responsible for providing every SPC and CDF in his or her jurisdiction access to complete and current versions of the documents listed above.

The facility administrator shall ensure that the facility operates in compliance with all applicable standards.

2. Upon a detainee's assignment to a job or detail, the supervisor shall provide thorough instructions regarding safe work methods and, if relevant, hazardous materials including:

- Safety features and practices demonstrated by the supervisor
- Recognition of hazards in the workplace, including the purpose for protective devices and clothing provided, reporting deficiencies to their supervisors. Staff and detainees that do not read English will not be authorized to work

with hazardous materials.

- A detainee shall not undertake any assignment before signing a voluntary work program agreement that, among other things, confirms that the detainee has received and understood training from the supervisor about the work assignment.

The voluntary work program agreement shall be placed in the detainee's detention file.

3. For a food service assignment, medical staff, in conjunction with the Public Health Service, shall ensure that detainees are medically screened and certified before undertaking the assignment.
4. The facility shall provide detainees with safety equipment that meets OSHA and other standards associated with the task performed.
5. *The facility administrator shall ensure that the facility operates in compliance with all applicable standards.*

O. Detainee Injury and Reporting Procedures

The facility administrator shall implement procedures for immediately and appropriately responding to on-the-job injuries, including immediate notification of ICE/DRO.

In SPCs and CDFs, if a detainee is injured while performing his or her work assignment:

1. *The work supervisor shall immediately notify the facility medical staff. In the event that the accident occurs in a facility that does not provide 24-hour medical care, the supervisor shall contact the on-call medical officer for instructions.*
2. *First aid shall be administered when necessary.*
3. *Medical staff shall determine what treatment is necessary and where that treatment shall take place.*
4. *The work supervisor shall complete a detainee accident report and submit it to the facility administrator for review and processing and file it in the detainee's detention file and A-file.*

Standard Approved:

James T. Hayes, Jr. /s/

12/5/2008

James T. Hayes, Jr.
Director
Office of Detention and Removal Operations

Date

Exhibit N

INS DETENTION STANDARD

VOLUNTARY WORK PROGRAM

I. POLICY

Every facility with a work program will provide detainees the opportunity to work and earn money. While not legally required to do so, INS affords working detainees basic Occupational Safety and Health Administration (OSHA) protections.

II. APPLICABILITY

The standards provided in this Detention Standard shall apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard.

See the separate "Definitions" Standard for the meaning of certain terms used in this document.

III. STANDARDS AND PROCEDURES

A. Voluntary Work Program

Detainees who are physically and mentally able to work will be provided the opportunity to participate in any voluntary work program.

The detainee's classification level will determine the type of work assignment for which he/she is eligible.

General work assignments at SPCs/CDFs do not require specific skills. A sample of work assignments and corresponding classification levels follows:

<i>Work Assignment</i>	<i>Level</i>
1. Kitchen worker (either shift)	1-2 (and 3, if screened for violence)
2. Recreation/Library/Barber	1-2 (and 3, if screened for violence)
3. Living area clean-up/janitorial	1-3
4. Area cleaning (inside facility)	1-3
5. Area cleaning (outside facility)	1
6. Evening workers (unit janitorial)	1-2
7. Evening workers (building janitorial)	1-2
8. Processing	1-2
9. Bus detail	1-3
10. Maintenance	1-2
11. Lawn care	1-3
12. Laundry	1-2

B. Voluntary Work Program Objectives

Through the voluntary work program:

1. Physically and mentally able detainees are gainfully employed while contributing to the orderly operation of the facility;
2. Essential operations and services improve through the productivity of detainees; and
3. Inactivity-induced idleness and disciplinary-code violations will decline.

C. Required Work Assignments

Work assignments are voluntary. However, all detainees are responsible for personal housekeeping.

In SPCs/CDFs, detainees are required to maintain their immediate living areas in a neat and orderly manner. This involves making their bunk beds daily, stacking loose papers, keeping the floor free of debris and dividers free of clutter, and hanging/draping no articles of clothing, pictures, keepsakes, or other objects from beds, overhead lighting fixtures, or other furniture.

D. Voluntary Special Details

Detainees may volunteer for the temporary work details that occasionally arise. The work, which generally last from several hours to several days, can involve digging trenches, removing topsoil, and other labor-intensive work. Level-3 detainees will not, under any circumstances, work outside the secure outer perimeter. With immediate supervision, lower categories of level-3 detainees may participate in special details.

E. Detainee Selection

The OIC shall develop site-specific rules for selecting work detail volunteers.

In SPCs/CDFs, these general procedures apply:

- a. *Staff will present the detainee's name and A-number to the shift supervisor or the requesting department head.*
- b. *The shift supervisor/department head will review the detainee's detention file and/or A-file for classification purpose, scanning documents that might provide relevant information.*
- c. *Inquiries to staff members about the detainee's attitude and behavior may affect the supervisor's selection.*
- d. *Staff will explain the rules and regulations as well as privileges relating to the detainee worker's status.*

The primary factors in hiring a detainee as a worker will be his/her classification level and the specific requirements of the job.

F. Discrimination in Hiring Detainee Workers

Volunteering detainees will not be denied work opportunities based on non-merit factors, such as social group, race, religion, sex, physical or mental handicaps, or national origin.

G. Physically and Mentally Challenged Detainees

INS maintains custody of physically and mentally challenged detainees whose disabilities range from minor to debilitating. While some of these individuals' medical restrictions will prevent them from working, those with less severe disabilities will have the opportunity to participate in the voluntary work program, in appropriate work projects.

The selecting official must consider the precise limitations of a disabled individual before rejecting certain work assignments. Expediency or convenience will not justify the rejection or pigeonholing of a detainee who, with reasonable accommodation, can perform the essential function of the work involved. In disputed cases, the official will consult medical personnel to ascertain the detainee's assignability with regard to a given project.

H. Hours of Work

Detainees participating in the volunteer work program are required to work according to a fixed schedule.

In SPCs/CDFs, the normal scheduled workday for a detainee employed full-time is a maximum of 8 hours. Detainees who wish to participate in the work program will not be permitted to work in excess of 8 hours daily, 40 hours weekly.

Unexcused absences from work or unsatisfactory work performance may result in removal from the voluntary work program

I. Work Restrictions

The OIC may restrict the number of work details permitted a detainee during one day.

In SPCs/CDFs, a detainee may participate in only one work detail per day. Also, the detainee is required to sign a voluntary work program agreement before every new assignment. Completed agreements will be filed in the detainee's detention file. (Sample agreement attached).

J. Facilities That Detain Criminal Aliens

If the facility cannot establish the classification level in which the detainee belongs, the detainee shall be ineligible for the voluntary work program.

K. Compensation

Detainees shall receive monetary compensation for work completed in accordance with the facility's standard policy.

In SPCs/CDFs, the stipend is \$1.00 per day, to be paid daily.

L. Removal of Detainee from Work Detail

A detainee may be removed from a work detail for cause. Upon removing a detainee from a work detail, the OIC shall place a written justification in the detainee's detention file.

A non-exhaustive list of reasons for removal follows:

1. Unsatisfactory performance.
2. Disruptive behavior, threats to security, etc.
3. Infraction of a facility rule, regulation or policy, leading to removal from a work details as a sanction imposed by the Institutional Disciplinary Panel.
4. Physical inability to perform all functions required by the job, whether because of a lack of strength or a medical condition. Such detainees may be removed from a work detail to prevent future injuries.

M. Detainee Responsibility

The OIC will establish procedures for informing detainee volunteers about on-the-job responsibilities and reporting procedures.

In SPCs/CDFs, the detainee is expected to be ready to report for work at the required time. The detainee may not leave an assignment without permission.

The detainee will perform all assigned tasks diligently and conscientiously. Removal from the work detail and/or disciplinary action may result when a detainee evades attendance and performance standards in assigned activities, or encourages others to do so.

The detainee will exercise care in performing assigned work, using safety equipment and other precautions in accordance with the work supervisor's instructions. In the event of a work-related injury, the detainee shall notify the work supervisor, who will immediately implement injury-response procedures (see section III. O., below).

N. Detainee Training and Safety

All detention facilities shall comply with all applicable health and safety regulations and standards.

The OIC shall ensure that all department heads develop and institutes, in conjunction with the facility's training officer, appropriate training for all detainee workers.

1. *In all SPCs/CDFs the Voluntary Work Program shall operate in compliance with the following:*
 - a. *Occupational Safety and Health Administration (OSHA) regulations set forth in 29 CFR Parts 1910, 1926, and 1960 (current indexes attached);*
 - b. *National Fire Protection Association 101 Life Safety Code (current index attached);*
 - c. *American Correctional Association Standards for Adult Local Detention Facilities (see section IV., below);*
 - d. *INS Environmental Occupational Safety and Health Program Handbook.*
2. Upon the detainee's assignment to a job or detail, the supervisor shall provide thorough instructions regarding safe work methods and, if relevant, hazardous materials. The supervisor shall demonstrate safety features and practices. Workers will learn to recognize hazards in the workplace, to understand the protective devices and clothing provided, and to report deficiencies to their supervisors. INS will not tolerate "lack of knowledge or skill" as an accident's cause. Therefore, the detainee shall undertake no assignment before signing a voluntary work program agreement. Among other things, by signing the agreement the detainee confirms he/she has received and understood training about the assigned job from the supervisor. This agreement will be placed in the detainee's detention file.

3. Medical staff, working with the Public Health Service, will ensure detainees are medically screened and certified before undertaking a food service assignment.
4. The facility will provide detainees with safety equipment that meets OSHA and other standards associated with the task performed.
5. *Each Regional Safety and Health Officer (RSHO) shall be responsible for providing every SPC/CDF in his/her region with complete and current copies of the documents listed in III.N.1., above, including 29 CFR Parts 1910, 1926 and 1960. The OIC shall ensure that the facility operates in compliance with all currently applicable standards.*

0. Detainee Injury and Reporting Procedures

The OIC shall implement procedures for immediately and appropriately responding to on-the-job injuries, including immediate notification of INS.

In SPCs/CDFs, if a detainee is injured while performing his/her work assignment, the following procedures apply:

1. *The work supervisor will immediately notify the facility medical staff. In the event that the accident occurs in a facility that does not provide 24-hour medical coverage, the supervisor will contact the on-call medical officer for instructions.*
2. *First aid will be administered when necessary.*
3. *Medical staff will determine what treatment is necessary and where that treatment will take place.*
4. *The work supervisor will complete a detainee accident report and submit it to the OIC for review and processing. A copy of this report will be placed in the detainee's A-file.*

IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED:

American Correctional Association 3rd Edition, Standards for Adult Detention Facilities:
3-ALDF-3E-04, 5A-01, 5A-03, 5A-04, 5A-05, 5A-06, 5A-08, 5A-13.


Approval of Standard



Michael D. Cronin
Acting Executive Associate Commissioner
Office of Programs

SEP 20 2000

Date



Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

SEP 20 2000

Date

INS DETENTION STANDARD

DISCIPLINARY POLICY

I. POLICY

To provide a safe and orderly living environment, facility authorities will impose disciplinary sanctions on any detainee whose behavior is not in compliance with facility rules and procedures.

II. APPLICABILITY

The standards provided in this Detention Standard shall apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard.

See the separate "Definitions" Standard for the meaning of certain terms used in this document.

III. STANDARDS AND PROCEDURES

A. Guidelines

1. Each facility holding INS detainees in custody will have a detainee disciplinary system. This disciplinary system shall have progressive levels of reviews, appeals, procedures, and documentation procedures. The disciplinary policy and procedures shall clearly define detainee rights and responsibilities
2. Disciplinary action may not be capricious or retaliatory.
3. Staff may not impose or allow imposition of the following sanctions: corporal punishment; deviations from normal food services; deprivation of clothing, bedding, or items of personal hygiene; deprivation of correspondence privileges; or deprivation of physical exercise unless such activity creates an unsafe condition.

4. The facility shall not hold a detainee accountable for his/her conduct if a medical authority finds him/her mentally incompetent.

A mentally incompetent individual unable to appreciate the difference between appropriate and inappropriate behavior— between “right” and “wrong”—is not capable of acting in accordance with those norms. Therefore, he/she is not responsible for his/her “wrongful” actions.

Also, a person who lacks the ability to understand the nature of the disciplinary proceedings against him/her, or to assist in his/her own defense, is considered incompetent. Disciplinary proceedings against such a detainee shall be postponed until such time as the detainee is able to understand the nature of the disciplinary proceedings and to assist in his/her own defense. If the detainee’s mental status does not improve within a reasonable amount of time, the Incident Report shall “find” the detainee incompetent to assist in his/her own defense. Under that circumstance, disciplinary proceedings cannot move forward.

5. The detainee handbook or equivalent, issued to each detainee upon admittance, shall provide notice of the facility’s rules of conduct, and of the sanctions imposed for violations of the rules. Among other things, the handbook shall advise detainees of the following:
 - a. The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment;
 - b. The right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs;
 - c. The right to pursue a grievance in accordance with written procedures (provided in the handbook);
 - d. The right to correspond with persons or organizations, consistent with safety, security, and the orderly operation of the facility; and
 - e. The right to due process, including the prompt resolution of a disciplinary matter (in accordance with the rules, procedures, and sanctions provided. in the handbook).

In SPCs/CDFs, copies of the rules of conduct and disciplinary sanctions will be posted in English, Spanish, and/or other languages spoken by significant numbers of detainees, as follows:

- a. *Disciplinary Severity Scale*
- b. *Prohibited Acts*
- c. *Sanctions*

B. Incident Reports

Officers who witness a prohibited act or have reason to suspect one has been committed shall prepare and submit an incident report. All incident reports must state the facts clearly, precisely, and concisely, omitting no details that could prove significant. Reports also will identify the officer(s), the detainee(s), and all witness(es) to the incident.

INS approval is required for the incident-report forms used in CDFs and IGSA facilities.

In SPCs/CDFs, minor transgressions will be settled informally, by mutual consent, whenever possible. If, however, the officer involved thinks an informal resolution inappropriate or unachievable, he/she shall prepare an Incident Report and Notice of Charges, forwarding it to the appropriate supervisor before the end of the assigned shift.

The incident report shall cite the relevant rule or standard without quoting it in its entirety. For example, for destruction of government property, the report would cite, briefly, "Code 218–Destroying Government Property."

If the officer observes anything unusual in the detainee's behavior or demeanor, he/she shall so note in the report. The reporting officer shall also list all staff, contract officers or detainee witnesses to the incident, and the disposition of any physical evidence (weapons, property, etc.) relating to the incident. The reporting officer will sign the report and include title, date and time the report was signed. The shift supervisor shall review all incident reports before going off duty.

C. Investigations

IGSAs shall have procedures in place to ensure that all incident reports are investigated within 24 hours of the incident.

The investigating officer shall have supervisory rank, or higher (unless prevented by personnel shortages) and shall have had no prior involvement in the incident, either as witness or officer at the scene. If an officer below supervisory rank conducts the investigation, the shift supervisor shall review his/her report(s) for accuracy and completeness, and sign them.

In SPCs/CDFs, the officer designated to investigate the incident is responsible for completing the necessary interviews, collecting evidence, and submitting written reports.

The investigating officer shall:

- 1. Commence the investigation within 24 hrs. of receipt of the incident report.*
- 2. Advise the detainee of the right to remain silent at every stage of the disciplinary process, and ensure he/she has a complete listing of detainee rights*
- 3. Advise the detainee that, although silence may not be used to support a finding of guilt, silence is rarely interpreted in the detainee's favor.*

4. *Provide the detainee(s) with a copy of the incident report/notice of charges at least 24 hours before the start of disciplinary proceedings.*
5. *Advise the detainee of his/her right, if applicable, to an initial hearing before the Unit Disciplinary Committee (UDC) within 24 hours of his/her notification of charges.*
6. *Terminate the investigation if the incident is under investigation elsewhere, e.g., on criminal grounds, unless and until the agency with primary jurisdiction concludes its investigation or indicates that it will not pursue the matter.*
7. *Record personal observances and other potentially material information.*
8. *Prepare a factual report of the investigation, including the location or disposition of any physical evidence.*
9. *Forward to the UDC all reports relevant to the disciplinary hearing. NOTE: policy expressly prohibits providing a copy of any such report(s) to the detainee at this stage of the disciplinary process.*

Unit Disciplinary Committee (UDC)

All facilities shall establish an intermediate level of investigation/adjudication is present to adjudicate low or moderate infractions. They shall also ensure that the detainee is afforded all the rights listed under "Detainee Rights in UDC Proceedings," below.

In SPCs/CDFs:

The UDC administering unit discipline shall comprise from one to three members, at least one of whom is a supervisor.

The UDC shall not include the reporting officer, the investigating officer, or an officer who witnessed or was directly involved in the incident. Only if virtually every available officer witnessed or was directly involved in the incident shall an exception to this rule occur

The UDC will conduct hearings and, to the extent possible, informally resolve cases involving "high moderate" or "low moderate" charges, in accordance with the list of charges and related sanctions (see III., I., below). Unresolved cases and cases involving serious charges are forwarded to the Institutional Disciplinary Panel.

The UDC shall have authority to:

1. *Conduct hearing and informally resolve incidents involving High Moderate or Low Moderate charges.*
2. *Consider written reports, statements, and physical evidence.*

3. *Hear pleadings on the part of the detainee.*
4. *Make findings that a detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence.*
5. *Impose minor sanctions "E" through "M" in accordance with the table of prohibited acts and associated sanctions (see section III.I., below).*

The detainee in UDC proceedings shall have the right to:

1. *Remain silent at any stage of the disciplinary process.*
2. *Due process, including a UDC hearing within 24 hours of the end of the investigation, and:*
 - a. *To attend the entire hearing (excluding committee deliberations); or*
 - b. *To waive the right to appear.*

If security considerations prevent the detainee's attendance, the committee must document the security considerations.
3. *Present statements and evidence in his/her own behalf.*
4. *Appeal the committee's determination through the detainee appeal process.*

The UDC shall:

1. *Advise the detainee of above-listed rights before the hearing.*
2. *Refer to the IDP any incident involving a serious violation, i.e., associated with an A-through-D-range sanction. This includes code violations in the "Greatest" and "High" categories (100s and 200s).*
3. *Serve the detainee with:*
 - a. *A copy of the UDC decision and sanctions imposed; or*
 - b. *Written notification of charges and hearing before the IDP.*
4. *If the detainee's case is being referred to the IDP, advise the detainee, in writing, of*
 - a. *The right to call witnesses and present evidence before the IDP; and*
 - b. *The right to a staff representative before the IDP.*

E. Staff Representation

In SPCs/CDFs, the Officer in Charge (OIC) shall, upon the detainee's request, assign a staff representative to help prepare a defense. This help will be automatically provided for illiterate detainees, detainees with limited English-language skills; detainees without means of collecting and presenting essential evidence and detainees in administrative or disciplinary segregation.

1. *A staff representative must be a full-time employee.*
2. *Because of the potential conflict of interest, the OIC, members of the IDP and of the UDC initially involved in the case, eyewitnesses, the reporting and investigating officers, and anyone else with a stake in the outcome shall not act as staff representative.*
3. *The detainee may select his/her staff representative, barring anyone identified in #2, above.*
4. *The IDP shall arrange for the presence of the staff representative selected by the detainee. If that staff member declines or is unavailable, the detainee has three choices. He/she may select a different representative; wait for the unavailable staff member to become available (within a reasonable period); or proceed without a staff representative.*
5. *A staff member declining to serve as a detainee's representative must state the reason on the staff representative form.*
6. *If several officers decline, the OIC shall assign a staff member to serve as that detainee's staff representative.*
7. *The staff representative shall be free to speak to witnesses and to present evidence in the detainee's behalf, including any mitigating circumstances.*
8. *The IDP shall allow the staff representative enough time to speak with the detainee and interview witnesses. The standard pre-hearing preparation time will suit most cases. However, the IDP may grant a delay if required for an adequate defense.*
9. *The IDP shall establish the reliability of information provided by a confidential informant before considering it in the disciplinary proceedings.*
10. *The IDP may withhold the confidential informant's identity from the staff representative. While the staff representative may challenge the substance of any confidential information the IDP discloses, he/she may not question its reliability (pre-established by the IDP).*
11. *When the detainee cannot effectively present his/her own case, the OIC shall appoint a staff representative, even if not requested by the detainee.*

F. Institutional Disciplinary Panel

All facilities that house INS detainees shall have a disciplinary panel to adjudicate detainee incident reports. Only the disciplinary panel can place a detainee in disciplinary segregation.

In SPCs and CDFs

1. *The IDP will consist of three members, including the chairperson.*
2. *The OIC shall appoint the three members of the panel..*

Members will be appointed by the OIC. The panel shall not include the reporting officer, the investigating officer, any member of the referring UDC, or anyone who witnessed or was directly involved in the incident. Only if virtually every available officer witnessed or was directly involved in the incident shall an exception to this rule occur

The IDP shall have authority to:

1. *Conduct hearings on all charges and allegations referred by the UDC.*
2. *Call witnesses to testify.*
3. *Consider written reports, statements, physical evidence, and oral testimony.*
4. *Hear pleadings by detainee and staff representative.*
5. *Make findings that the detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence.*
6. *Impose sanctions as listed and authorized in each category.*

The IDP shall:

1. *Verify that the detainee has been advised of, and afforded, his/her rights, as provided above.*
2. *Remind the detainee of his/her right to a staff representative, providing one if requested.*
3. *Advise the detainee of his/her right to waive the hearing and admit having committed the offense.*

4. *Conduct the hearing on the first business day after receiving the UDC's referral, unless the detainee waives the 24-hour notification provision, requesting an immediate hearing. In cases where a hearing is delayed, the reason(s) must be documented (e.g., a continuing investigation of facts, their unavailability of one or more essential witnesses, etc.) and approved by the OIC. If the detainee is being held in segregation, the delay shall not exceed 72 hours, barring an emergency.*
5. *Prepare a written record of its proceedings. This record must show that the detainee was advised of his/her rights. It must also document the evidence considered by the Panel and subsequent findings; the decision and sanctions imposed, along with a brief explanation.*
6. *Forward the entire record to the OIC, who may (a) concur; (b) terminate the proceedings; or (c) impose stiffer or lesser sanctions.*
7. *Serve the detainee with written notification of the decision.*

G. Postponement of Disciplinary Proceedings

All facilities shall permit hearing postponements or continuances under certain circumstances.

In SPCs/CDFs, circumstances justifying the postponement or continuance of a hearing might include: defense preparation, physical or mental illness, security, escape, disciplinary transfer, removal or pending criminal prosecution.

An uncooperative detainee may also cause a delay in the proceedings, either because of inappropriate behavior during the hearing process or a refusal to participate in a productive manner.

H. Duration of Punishment

The duration of punishment shall be within established limits. Neither the panel recommending sanctions nor the OIC making the final decision shall impose sanctions arbitrarily, outside these limits.

1. Punishments range from the withholding of privilege(s) to segregation. Time in segregation after a hearing will generally not exceed 60 days.
2. Time served in segregation pending the outcoming of the proceedings may be credited to the number of days to be spent in the segregation unit after the decision is announced.
3. The disciplinary report and accompanying documents are not placed in the file of a detainee who is found not guilty. However, the facility may retain the material in its own files for institutional uses (statistical, historical, etc.).

I. Disciplinary Severity Scale and Prohibited Acts

All facilities shall have graduated scales of offenses and disciplinary consequences, as provided in this section.

SPCs/CDFs shall adopt, without changing, the offense categories and disciplinary sanctions set forth in this section.

Prohibited acts are divided into four categories: "Greatest," "High," "Moderate," and "Low Moderate." The sanctions authorized for each category (see table of sanctions, below) will be imposed only if the detainee is found to have committed a prohibited act.

- a. "Greatest" offenses: The IDP shall impose and execute at least one sanction in the A through E range. Additional sanctions (A through G) may be imposed and either executed or suspended, at the discretion of the panel. The IDP may impose and execute sanctions F and G only in conjunction with sanction A, B, C, D, and/or E.*
- b. "High" offenses: The IDP shall impose and execute at least one sanction in the A through M range. Additional sanctions (A through M) may be imposed, and either executed or suspended, at the discretion of the panel.*
- c. "High Moderate" offenses: The IDP shall impose at least one sanction in the A through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.*
- d. "Low Moderate" offenses: The IDP shall impose at least one sanction in the E through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.*

J. Documents

All documents relevant to the incident, subsequent investigation, hearing(s), etc., will be completed and distributed in accordance with facility procedures.

In SPCs/CDFs, documents will be prepared and distributed as follows:

Incident Report/Notice of Charges

The officer shall prepare a report and submit it to the INS or CDF supervisor immediately after the incident takes place. If the incident is resolved informally, the officer will so note on the original report, which will then be forwarded to the Chief Detention Enforcement Officer or Chief of Security.

If the UDC is to be involved, the supervisor shall serve the detainee with a copy of the Notice of Charges upon completion of the investigation, no less than 24 hours before the UDC hearing.

The UDC receives the original copy.

If the UDC hears the matter, the ranking member of that committee shall serve the detainee with a copy of the Incident Report/Notice of Charges indicating their decision. The UDC, upon conclusion of its proceedings, will forward the entire record to either the Chief of Detention or the IDP, as appropriate.

Investigation Report

*Original—submitted to the UDC.
Detainee does not receive a copy*

UDC Report of Findings and Action

*Original—served on the detainee after the committee issues its findings
Copy—to the detainee detention file (guilty finding only)*

Notice of IDP Hearing

*Original—served on detainee
Copy—detainee detention file*

Detainee Rights at IDP Hearing

*Original—served on detainee
Copy—facility detention file*

IDP Report

*Original—detainee detention file
Copy—detainee*

K. Confidential Information

When a decision relies on information from a confidential informant, the UDC or IDP shall include in the hearing record the factual basis for finding the information reliable.

L. Notice to Detainees


The detainee handbook, or equivalent, shall notify detainees of the following:

1. The disciplinary process.
2. The prohibited acts and disciplinary severity scale:
3. The procedure for appealing disciplinary findings.

IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED

American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-3C-01, 3C-02, 3C-03, 3C-04, 3C-05, 3C-06, 3C-07, 3C-08, 3C-09, 3C-10, 3C-11, 3C-12, 3C-13, 3C-14, 3C-15, 3C-16, 3C-17, 3C-18, 3C-19, 3C-20, 3C-21, 3C-22


Approval of Standard



Michael D. Cronin
Acting Executive Associate Commissioner
Office of Programs

SEP 20 2000

Date



Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

SEP 20 2000

Date

Disciplinary Severity Scale and Prohibited Acts

"GREATEST" OFFENSE CATEGORY

CODE	PROHIBITED ACTS	SANCTIONS
100	Killing	A. Initiate criminal proceedings
101	Assaulting any person (includes sexual assault)	B. Disciplinary transfer (recommend)
102	Escape from escort; escape from a secure facility	C. Disciplinary segregation (up to 60 days)
103	Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of greatest severity, e.g., a riot or an escape; otherwise the charge is classified as Code 218 or 321)	D. Make monetary restitution, if funds are available.
104	Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive, escape tool, device, or ammunition.	
105	Rioting	
106	Inciting others to riot	
107	Hostage-taking	
108	Assaulting a staff member or any law enforcement officer	
109	Threatening a staff member or any law enforcement office with bodily harm.	
*198	Interfering with a staff member in the performance of duties (conduct must be of the greatest severity). This charge is to be used only if another charge of greatest severity is not applicable.	
*199	Conduct that disrupts or interferes with the security or orderly running of the facility (conduct must be of the greatest severity). This charge is to be used only if another charge of greatest severity is not applicable.	

Disciplinary Severity Scale and Prohibited Acts

"HIGH" OFFENSE CATEGORY

CODE	PROHIBITED ACTS	SANCTIONS
200	Escape from unescorted activities, open or secure facility, without violence	A. Initiate criminal proceedings
201	Fighting, boxing, wrestling, sparring, and any other form of physical encounter, including horseplay, that causes or could cause injury to another person; except when part of an approved recreational or athletic activity	B. Disciplinary transfer (recommend) C. Disciplinary segregation (up to 60 days) D. Make monetary restitution, if funds are available
202	Possession or introduction of an unauthorized tool	E. Loss of privileges: commissary, movies, recreation, etc.
203	Loss, misplacement, or damage of any restricted tool	F. Change housing
204	Threatening another with bodily harm	G. Remove from program and/or group activity
205	Extortion, blackmail, protection: demanding or receiving money or anything of value in return for protection against others, avoiding bodily harm, or avoiding a threat being informed against	H. Loss of job I. Impound and store detainee's personal property
206	Engaging in sexual acts	J. Confiscate contraband
207	Making sexual proposals or threats	K. Restrict to housing unit
208	Wearing a disguise or mask	
209	Tampering with or blocking any lock device	
210	Adulteration of food or drink	

"HIGH" OFFENSE CATEGORY, cont'd

CODE	PROHIBITED ACTS	SANCTIONS
211	Possession, introduction, or use of narcotics, narcotic paraphernalia, or drugs not prescribed for the individual by the medical staff	A. Initiate criminal proceedings B. Disciplinary transfer (recommend)
212	Possessing an officer's or staff member's clothing	C. Disciplinary segregation (up to 60 days)
213	Engaging in or inciting a group demonstration	D. Make monetary restitution, if funds are available
214	Encouraging others to participate in a work stoppage or to refuse to work	E. Loss of privileges: commissary, movies, recreation, etc.
215	Refusing to provide a urine sample or otherwise cooperate in a drug test	
216	Introducing alcohol into the facility	F. Change housing
217	Giving or offering an official or staff member a bribe or anything of value	G. Remove from program and/or group activity H. Loss of job
218	Giving money to, or receiving money from, any person for an illegal or prohibited purpose, such as introducing/conveying contraband	I. Impound and store detainee's property J. Confiscate contraband
219	Destroying, altering, or damaging property (government or another person's) worth more than \$100	K. Restrict to housing unit
220	Being found guilty of any combination of three or more high moderate or low moderate offenses within 90 days	

Disciplinary Severity Scale and Prohibited Acts

"HIGH" OFFENSE CATEGORY, cont'd

CODE	PROHIBITED ACTS	SANCTIONS
221	Signing, preparing, circulating, or soliciting support for prohibited group petitions	A. Initiate criminal proceedings
222	Possessing or introducing an incendiary device, e.g., matches, a lighter, etc.	B. Disciplinary segregation (recommend) C. Disciplinary segregation
223	Any act that could endanger person(s) and/or property	D. Make monetary restitution, if funds are available
*298	Interfering with a staff member in the performance of duties (conduct must be of highest severity). This charge is to be used only when no other charge of highest severity is applicable.	E. Loss of privileges, e.g., commissary, movies, recreation, etc. F. Change housing G. Remove from program and/or group activity
*299	Conduct that disrupts or interferes with the security or orderly operation of the facility (conduct must be of highest severity). This charge is to be used only when no other charge of highest severity is applicable.	H. Loss of job I. Impound and store detainee's personal property J. Confiscate contraband K. Restrict to housing unit

*When the prohibited act is interfering with a staff member in the performance of duties (Code 198, 298, 398 or 498) or conduct that disrupts (Code 199, 299, 399 or 499), the Disciplinary Committee should specify in its findings the severity-level of the conduct, citing a comparable offense in that category. For example, "We find the act of to be of high severity, most comparable to Code 213, "engaging in a group demonstration."

Disciplinary Severity Scale and Prohibited Acts

“HIGH MODERATE” OFFENSE CATEGORY

CODE	PROHIBITED ACTS	SANCTIONS
300	Indecent exposure	A. Initiate criminal proceedings
301	Stealing (theft)	B. Disciplinary transfer (recommend)
302	Misuse of authorized medication	
303	Loss, misplacement, or damage of a less restricted tool	C. Disciplinary segregation (up to 72 hours)
304	Lending property or other item of value for profit/increased return	D. Make monetary restitution
305	Possession of item(s) not authorized for receipt or retention; not issued through regular channels	E. Loss of privileges, e.g., vending machines, recreation, etc.
		F. Change housing
306	Refusal to clean assigned living area	G. Remove from program
307	Refusing to obey a staff member/officer’s order (may be categorized and charged as a greater or lesser offense, depending on the kind of disobedience: continuing to riot is Code 105--Rioting; continuing to fight, Code 201--Fighting; refusing to provide a urine sample, Code 215	H. Loss of job
		I. Impound and store detainee's personal property
		J. Confiscate contraband
		K. Restrict to housing unit
308	Insolence toward a staff member	L. Reprimand
309	Lying or providing false statement to staff	M. Warning

Disciplinary Severity Scale and Prohibited Acts

“HIGH MODERATE” OFFENSE CATEGORY,

CODE	PROHIBITED ACTS	SANCTIONS
310	Counterfeiting, forging, or other unauthorized reproduction of money or other official document or item, e.g. security document, identification card, etc. (may be categorized as greater or lesser offense, depending on the nature and purpose of the reproduction, e.g., counterfeiting release papers to effect escape--Code 102 or 200)	A. Initiate criminal proceedings B. Disciplinary transfer (recommend) C. Disciplinary segregation (up to 72 hours) D. Make monetary restitution
311	Participating in an unauthorized meeting or gathering	E. Loss of privileges, e.g., vending machines, recreation, etc.
312	Being in an unauthorized area	F. Change housing
313	Failure to stand count	G. Remove from program and/or group activity
314	Interfering with count	H. Loss of job
315	Making, possessing, or using intoxicant(s)	I. Impound and store detainee's personal property
316	Refusing a breathalyzer test or other test of alcohol consumption	J. Confiscate contraband
317	Gambling	K. Restrict to housing unit
318	Preparing or conducting a gambling pool	L. Reprimand
319	Possession of gambling paraphernalia	M. Warning
320	Unauthorized contact with public.	

HIGH MODERATE” OFFENSE CATEGORY,

CODE	PROHIBITED ACTS	SANCTIONS
321	Giving money or another item of value to, or accepting money or another item of value from anyone, including another detainee, without staff authorization	A. Initiate criminal proceedings B. Disciplinary transfer (recommend)
322	Destroying, altering, or damaging property (government or another person’s person’s) worth more than \$100	C. Disciplinary (up to 72 hours) D. Make monetary restitution
*398	Interfering with a staff member in the performance of duties (offense must be of high moderate severity). This charge is to be used only when no other charge in this category is applicable.	E. Loss of privileges; vending machines, recreation, etc. F. Change housing
*399	Conduct that disrupts or interferes with the security or orderly running (offense must be of high moderate severity). This charge is to be used only when no other charge in this category is applicable.	G. Remove from program and/or group activity H. Loss of job I. Impound and store detainee's personal property J. Confiscate contraband K. Restrict to housing unit L. Reprimand

NOTE: Any combination of high moderate and low moderate offenses during a 90-day period shall constitute a high offense.

Disciplinary Severity Scale and Prohibited Acts

“LOW MODERATE” OFFENSE CATEGORY

CODE	PROHIBITED ACTS	SANCTIONS
400	Possession of property belonging to another person	D. Make monetary restitution
401	Possessing unauthorized clothing	E. Loss of privileges, e.g., commissary, vending machines, recreation
402	Malingering, feigning illness	
403	Smoking where prohibited	F. Change housing
404	Using abusive or obscene language	G. Remove from program and/or group activity
405	Tattooing, body piercing, or self-mutilation	H. Loss of job
406	Unauthorized use of mail or telephone (with restriction or temporary suspension of the abused privileges often the appropriate sanction)	I. Impound, store detainee's personal property
407	Conduct with a visitor in violation of rules and regulations (with restriction or temporary suspension of visiting privileges often the appropriate sanction)	J. Confiscate contraband K. Restrict to housing unit L. Reprimand
408	Conducting a business	M. Warning
409	Possession of money or currency, unless specifically authorized	
410	Failure to follow safety or sanitation regulations	
411	Unauthorized use of equipment or machinery	
412	Using equipment or machinery contrary to posted safety standards	

Disciplinary Severity Scale and Prohibited Acts

“LOW MODERATE” OFFENSE CATEGORY, cont’d

CODE	PROHIBITED ACTS	SANCTIONS
413	Being unsanitary or untidy, failing to keep self and living area in accordance with posted standards	D. Make monetary restitution
498	Interfering with a staff member in the performance of duties (offense must be of low moderate severity). This charge is to be used only when no other charge in this category is applicable.	E. Loss of privileges. e.g., commissary, vending machines, recreation
		F. Change housing
		G. Remove from program and/or group activity
		H. Loss of job
*499	Conduct that disrupts or interferes with the security or orderly running of the facility (offense must be of low moderate severity). This charge is to be used only when no other charge in this category is applicable.	I. Impound and store detainee's personal property
		J. Confiscate contraband
		K. Restrict to housing unit
		L. Reprimand
		M. Warning

INS DETENTION STANDARD

ENVIRONMENTAL HEALTH AND SAFETY

I. POLICY

Each facility will establish a hazardous materials program for the control, handling, storage, and use of flammable, toxic, and caustic materials. This will protect detainees, staff, and visitors, preventing breaches in safety and security. Among other things, the facility will include the identification and labeling of hazardous materials in accordance with applicable regulations, standards and codes (Occupational Safety and Health Administration (OSHA), National Fire Protection Association, etc.); will provide warnings of incompatible materials, etc.

II. APPLICABILITY

The standards provided in this Detention Standard will apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard.

See the separate "Definitions" Standard for the meaning of certain terms used in this document.

III. STANDARDS AND PROCEDURES

Every facility will establish a system for storing, issuing, and maintaining inventories of and accountability for hazardous materials. Adopting such a system may require changes in facility storage methods, inventory maintenance, and recordkeeping. The system's effectiveness will depend on staff and detainees following instructions precisely and taking prescribed precautions, including using safety equipment.

A. Inventories

Every area will maintain a running inventory of the hazardous (flammable, toxic, or caustic) substances used and stored in that area. Inventory records will be maintained separately for

each substance, with entries for each logged on a separate card (or equivalent). That is, the account keeping will not be chronological, but filed alphabetically, by substance (dates, quantities, etc.).

B. Material Safety Data Sheets (MSDSs); Files

Every area using hazardous substances will maintain a self-contained file of the corresponding Material Safety Data Sheets (MSDSs). The MSDSs provide vital information on individual hazardous substances, including instructions on safe handling, storage, and disposal, prohibited interactions, etc. Staff and detainees will have ready and continuous access to the MSDSs for the substances with which they are working while in the work area.

Because changes in MSDSs occur often and without broad notice, staff must review the latest issuance from the manufacturers of the relevant substances, updating the MSDS files as necessary.

The MSDS file in each area should include a list of all areas where hazardous substances are stored, along with a plant diagram and legend. Staff will provide a copy of this information and all MSDSs contained in the file, forwarding updates upon receipt, to the Maintenance Supervisor or designate.

C. Master Index

The Maintenance Supervisor or designate will compile a master index of all hazardous substances in the facility, including locations, along with a master file of MSDSs. He/she will maintain this information in the safety office (or equivalent), with a copy to the local fire department. Documentation of the semi-annual reviews will be maintained in the MSDS master file.

The master index will also include a comprehensive, up-to-date list of emergency phone numbers (fire department, poison control center, etc.).

D. Personal Responsibility

Every individual using a hazardous substance in the facility must be familiar with and follow all prescribed precautions, wear personal protective equipment when necessary, and report hazards or spills to the designated authority.

E. General Guidelines

1. Issuance: Flammable, caustic, and toxic substances (hazardous substances) will be issued (i.e., drawn from supply points to canisters or dispensed) only under the supervision of the designated officer.
2. Amounts: A hazardous substances will be issued in single-day increments, i.e., the amount needed for one day's work.

3. Supervision: Qualified staff will closely monitor detainees working with hazardous substances.
4. Accountability: Inventory records for a hazardous substance must be kept current before, during, and after each use.

F. Specific Guidelines for Storage, Use, and Disposal of Flammable and Combustible Liquids

1. Any liquid or aerosol labeled “Flammable” or “Combustible” must be stored and used as prescribed on the label, in accordance with the Federal Hazardous Substances Labeling Act, to protect both life and property.
2. Lighting fixtures and electrical equipment installed in flammable-liquid storage rooms must meet National Electrical Code requirements for same in hazardous locations.
3. Every hazardous-material storage room will:
 - a. Be of fire-resistant construction and properly secured;
 - b. Have self-closing fire doors at each opening;
 - c. Be constructed with either a four-inch sill or a four-inch depressed floor; and
 - d. Have a ventilation system (mechanical or gravity flow) within 12 inches of the floor, which provides at least six air changes per hour.
4. Every storage cabinet will:
 - a. Be constructed according to code and securely locked at all times;
 - b. Stand clear of open passageways, stairways, and other emergency exit areas;
 - c. Be conspicuously labeled: “Flammable–Keep Fire Away”; and
 - d. Contain either 60 gallons, maximum, of Class I and/or Class II liquids or 120 gallons, maximum, of Class III liquids.
5. Storage rooms and cabinets cannot be entered except under secure conditions, under the supervision of authorized staff.
6. A portable container that is not the original shipping containers must be an approved safety can, listed or labeled by a nationally recognized testing laboratory. Each will bear a legible label that identifies its contents.
7. Excess liquids will remain in original containers, tightly closed, in the storage room or cabinet.

8. The MSDS will govern use of a particular flammable or combustible liquid.
9. Only authorized staff will dispense flammable and combustible liquids dispensed only by an authorized staff member, using acceptable methods for drawing from or transferring these liquids.

Drawing from or transferring any of these liquids into containers indoors is prohibited unless:

- a. Through a closed piping system;
- b. From a safety can;
- c. By a device drawing through the top; or
- d. By gravity, through an approved self-closing system.

An approved grounding and bonding system must be used when liquids are dispensed from drums.

10. Without exception, cleaning liquids must have a flash point at or above 100° F (e.g., Stoddard solvents, kerosene). Cleaning operations must be in an approved parts-cleaner or dip tank fitted with a fusible link lid with a 160° F melting-temperature link.
11. Staff will follow MSDS directions in disposing of excess flammable or combustible liquids.
12. Likewise, staff will follow the method provided in the MSDS in case of a chemical spill.

G. Toxic and Caustic Substances

1. All toxic and caustic materials must be stored in secure areas, in their original containers, with the manufacturer's label intact on each container.
2. Authorized staff only will draw/dispense these substances, in accordance with the applicable Material Safety Data Sheet(s).
3. Staff will either return unused amounts to the original container(s) or, under certain circumstances, to another suitable, clearly labeled container in the storage area..
4. MSDS directions will determine the disposal and spill procedures for toxic and caustic materials used in the facility.

H. Poisonous Substances

1. Poisonous substances or chemicals pose a very high (Class I) caustic hazard due to their toxicity, e.g., methyl alcohol, sulfuric acid, muriatic acid, caustic soda, tannic acid, etc.

2. Methyl alcohol, variously referred to as wood alcohol and methanol, is commonly found in industrial applications (e.g., shellac thinner, paint solvent, duplicating fluid, solvents for leather cements and dyes, flushing fluid for hydraulic brake systems). If ingested, methyl alcohol can cause permanent blindness or death.
3. Staff must directly supervise the use of any product containing methyl alcohol. Products containing methyl alcohol in a diluted state, such as shoe dye, may be issued to detainees, but only in the smallest workable quantities.
4. Immediate medical attention is vital any time methyl alcohol poisoning is suspected.

I. Other Toxic Substances

1. Permanent antifreeze containing ethylene glycol will be stored in a locked area and dispensed only by authorized staff.
2. Typewriter cleaner containing carbon tetrachloride or trichloroethane will be dispensed in small quantities and used under direct supervision by staff.
3. Cleaning fluids containing carbon tetrachloride or tetrachloride or trichloroethylene must be strictly controlled.
4. Glues of every type may contain hazardous chemicals. When use of a nontoxic product is not possible, staff must closely supervise all stages of handling. The toxic glues must be stored in a locked location.
5. The use of dyes and cements for leather requires close supervision. Nonflammable types will be used whenever possible.
6. Ethyl alcohol, isopropyl alcohol, and other antiseptic products will be stored and used in the medical department only, under close supervision. To the extent practicable, such chemicals will be diluted and issued only in small quantities so as to prevent any injuries or lethal accumulation.
7. Pesticides not currently approved by the Environmental Protection Agency, such as DDT and 1080 (sodium fluoracetate), are prohibited. The Maintenance Supervisor or designate is responsible for purchasing, storing (in a locked area), and dispensing all the pesticides used in the facility.
8. The Maintenance Supervisor or designate or other staff member responsible for herbicides must hold a current state license as a Certified Private Applicator. Persons applying herbicides must wear proper clothing and protective gear.
9. Lyes may be used only in dye solutions and only under the direct supervision of staff.

J. Labeling of Chemicals, Solvents, and Other Hazardous Materials

The OIC will individually assign the following responsibilities associated with the labeling procedure:

1. Identifying the hazardous nature of materials adopted for use;
2. Requiring use of properly labeled containers for hazardous materials, including any and all miscellaneous containers into which employees might transfer the material;
3. Teaching staff the meaning of the classification code and the MSDS, including the safe handling procedures for each material,; and impressing on staff the need to ensure containers are properly labeled; and
4. Placing correct labels on all smaller containers when only the larger shipping container bears the manufacturer-affixed label;

K. Controlled Hazardous Materials

Certain substances require special treatment, including careful planning before use, which goes beyond attention to the warning label. These controlled materials are classified according to the type of hazard and the nature of the restrictions imposed for their safe use, as specified in OSHA regulations.

Class I: Industrial Solvents. Includes industrial solvents and chemicals used as paint thinners, degreasers, and cleaning agents that may have toxic properties and low flash points, making them dangerous fire hazards.

Class II: Restricted Materials. Beryllium, its alloys and compounds, and silver solder containing cadmium pose a danger to workers, for whom special precautions must be taken.

Class III: Recognized Carcinogens. OSHA-listed carcinogens are governed by the OSHA regulations provided in 29 CFR 1910.1000. Although asbestos appears on the OSHA list, it is exempt from the regulation under the following circumstances: (i) when no asbestos fibers will be released into the air during handling and use; and (ii) when the asbestos in question consists of firmly bound asbestos fibers contained in a product, e.g., a transit pipe, wallboard, or tile, except when being sawed or otherwise handled in a way that releases fibers into the air.

Class IV: Suspected Carcinogenic, Teratogenic, and Mutagenic Materials: Chemical agents, substances, mixtures, and exposures listed in the biennial *Report on Carcinogens* issued by the U.S. Public Health Service, in accordance with the Public Health Service Act; the Maintenance Supervisor or designate will ensure the facility has and complies with the provisions of the latest edition.

L. FIRE PREVENTION AND CONTROL

1. Fire Safety Codes

Every facility will comply with standards and regulations issued by the Environmental Protection Agency (EPA) and OSHA, the American Correctional Association's "mandatory" standards, local and national fire safety codes, and the applicable standards of the American Society for Testing and Materials, American National Standards Institute, and Underwriters' Laboratories or Factory Mutual Engineering Corporation.

New construction, alterations, and renovations, will comply with the latest revision or update of the BOCA National Building Code (issued by Building Officials and Code Administrators International); the Uniform Building Code, or the Standard Building Code, in accordance with 40 USC Title 619 and local law. If the local government does not mandate adherence to a particular code, the construction must conform to the BOCA National Building Code.

In addition, the construction will comply with the latest edition of the National Fire Protection Association's *NFPA 101, Life Safety Code* and *National Fire Codes*. If the fire protection and life safety requirements of a building code differ from the *NFPA 101* or the *National Fire Codes*, the requirements of NFPA 101 and the NFCs will take precedence, recognized as equivalent to the specifications of any local building code.

2. Inspections

A qualified departmental staff member will conduct weekly fire and safety inspections; the maintenance (safety) staff will conduct monthly inspections. Written reports of the inspections will be forwarded to the OIC for review and, if necessary, corrective action determinations. The Maintenance Supervisor or designate will maintain inspection reports and records of corrective action in the safety office.

3. Fire Prevention, Control, and Evacuation Plan

Every institution will develop a fire prevention, control, and evacuation plan to include, among other thing, the following:

- a. Control of ignition sources;
- b. Control of combustible and flammable fuel load sources;
- c. Provisions for occupant protection from fire and smoke;
- d. Inspection, testing, and maintenance of fire protection equipment, in accordance with NFPA codes, etc.;

- e. Monthly fire inspections;
- f. Installing fire protection equipment throughout the facility, in accordance with *NFPA 10, Standard for Portable Fire Extinguishers*;
- g. Accessible, current floor plans (buildings and rooms); prominently posted evacuation maps/plans; exit signs and directional arrows for traffic flow; with a copy of each revision filed with the local fire department;
- h. Conspicuously posted exit diagram conspicuously posted for and in each area.

4. Fire Drills

Monthly fire drills will be conducted and documented separately in each department.

- a. Fire drills in housing units, medical clinics, and other areas occupied or staffed during non-working hours will be timed so that employees on each shift participate in an annual drill.
- b. Detainees will be evacuated during fire drills, except in areas where security would be jeopardized or in medical areas where patient health could be jeopardized or, in individual cases when evacuation of patients is logistically not feasible. Staff- simulated drills will take place instead in the areas where detainees are not evacuated.
- c. Emergency-key drills will be included in each fire drill, and timed. Emergency keys will be drawn and used by the appropriate staff to unlock one set of emergency exit doors not in daily use. NFPA recommends a limit of four and one-half minutes for drawing keys and unlocking emergency doors.

5. Exit Diagram

In addition to a general area diagram, the following information must be provided on existing signs:

- a. English and Spanish instructions;
- b. "You Are Here" markers;
- c. Emergency equipment locations.

New signs and sign replacements will also identify and explain "Areas of Safe Refuge."

M. Pests and Vermin

The OIC will contract with licensed pest-control professionals to perform monthly inspections. During these routine inspections, they will identify and eradicate rodents, insects, and vermin. The contract will include a preventative spraying program for indigenous insects.

N. Certification of Facility Water Supply

A state laboratory will test samples of drinking and wastewater to ensure compliance with applicable standards.

O. Emergency Electrical Power Generator

Power generators will be tested at least every two weeks. Other emergency equipment and systems will undergo quarterly testing, with follow-up repairs or replacement as necessary.

The biweekly test of the emergency electrical generator will last one hour. During that time, the oil, water, hoses and belts will be inspected for mechanical readiness to perform in an emergency situation. The emergency generator will also receive quarterly testing and servicing from an external generator-service company. Among other things, the technicians will check starting battery voltage, generator voltage and amperage output.

P. Guidelines for Specific Areas of the Facility; Barber Operations

Sanitation of barber operations is of the utmost concern because of the possible transfer of diseases through direct contact or by towels, combs and clippers. Towels must not be reused after use on one person. Instruments such as combs and clippers will not be used successively on detainees without proper cleaning and disinfecting. The following standards will be adhered to:

1. The operation will be located in a separate room not used for any other purpose. The floor will be smooth, nonabsorbent and easily cleaned. Walls and ceiling will be in good repair and painted a light color. Artificial lighting of at least 50-foot candles will be provided. Mechanical ventilation of 5 air changes per hour will be provided if there are no operable windows to provide fresh air. At least one lavatory will be provided. Both hot and cold water will be available, and the hot water will be capable of maintaining a constant flow of water between 105 degrees and 120 degrees.
2. Each barbershop will be provided with all equipment and facilities necessary for maintaining sanitary procedures of hair care. Each shop will be provided with appropriate cabinets, covered metal containers for waste, disinfectants, dispensable headrest covers, laundered towels and haircloths.

3. Between detainees, all hair care tools coming in contact with the detainees will be cleaned and effectively disinfected. Hair care tools come into intimate contact with the detainees' scalp and skin, and when reused without disinfection, provide excellent means for transfer of ringworm or other skin and scalp diseases. Clippers may be treated for pathogenic organisms and fungi by an approved bactericidal and fungicidal process. Ultraviolet lights may only be used for maintaining tools after sterilization.
4. Each barbershop will have detailed hair care sanitation regulations posted in a conspicuous location for the use of all hair care personnel and detainees
 - a. All scissors, combs or other tools (except clippers) will be thoroughly washed with soap and hot water to remove film and debris and effectively disinfected immediately after use on each detainee and before being used for the service of any other detainee.
 - b. After cleaning, the clipper blades will be immersed in the disinfectant solution and agitated for a period of not less than 15 seconds before use on any other detainee. The solution will be replaced as often as necessary.
 - c. No hair care specialist will use for the service of a detainee any headrest cover, neck strap, towel, or washcloth that has been used for any other detainee, unless the same will have been properly laundered since its last use.
 - d. Clean hair cloths may be reused; however, when a hair cloth is used in servicing a detainee, a neck strip, a freshly laundered towel, or other suitable protection will be placed between the hair cloth and the neck of the detainee. Soiled or unclean hair clothes may not be used.
 - e. Cotton pads, absorbent cotton and other single or dispensable toilette articles may not be reused, and will be placed in a proper waste receptacle immediately after use.
 - f. The common use of brushes, neck duster, shaving mugs and shaving brushes will be prohibited.
 - g. The making of shaving lather in a wash basin or lavatory for use in serving a detainee is prohibited.
 - h. The use of powder puffs, sponges, lump alum, styptic pencils, and similar items is prohibited.
 - I. The removal or treatment of blackheads, carbuncles, infected hairs, or any sores or lesions is prohibited.

- j. The pulling of hair from ears, nostrils, eyebrows, and moustaches is prohibited.
- k. No barber or beautician will serve any detainee when the skin of the detainee's face, neck, or scalp is inflamed, scaling, contains pus, or is erupted, unless service of such detainee is performed in accordance with the specific authorization of the Chief Medical Officer.
- i. No person will be served when infested with head lice.

Q. Guidelines for Specific Areas of the Facility, Medical Operations

An established uniform procedure will be provided for the safe handling and disposal of used needles and other potentially sharp objects to prevent both mechanical injury and the percutaneous transmission of infectious disease organisms, especially the hepatitis B virus (HBV) and the human immunodeficiency virus (HIV).

A uniform procedure for used needles and other disposable sharps is necessary to reduce the number of such injuries by preventing the secondary handling of needles and other dangerous sharp objects used in the delivery of medical care. Accidental injuries from sharp objects (sharps) are common in health care programs, mostly from needle sticks caused by attempting to recap hypodermic needles.

Sharps will be defined as all disposable or discarded items derived from detainee care that could potentially transmit disease via direct subdermal inoculation. Items included under this policy are: hypodermic needles and syringes, scalpel blades, glass vials or ampules containing materials deemed to be infectious, burrs, glass cartridges, lancets. The following procedures will be observed when handling and disposing of needles and other hazardous sharp items.

1. Inventory

An inventory will be kept of those items that pose a security risk, such as sharp instruments, syringes, needles, and scissors. This inventory will be checked weekly by an individual designated by the medical facility Health Service Administrator (HSA) or equivalent.

2. Handling

Without removing the needles or replacing the needle covers, staff will place used (disposable) syringes in a plastic disposal box or container.

a. Disposal Containers

Use only commercially available, biohazardous-waste sharps containers approved by the National Institute of Safety and Health. An example of an approved brand is "Winfield Sharps Container." Do not use milk cartons or plastic milk jugs as they have been found to puncture easily.

Likewise do not use other plastic containers of similar thickness.

Containers will be of approximately two-gallon capacity in order to be of sufficient size to receive various types of sharps. Under no circumstances will an item be removed from the container.

b. Location

Containers will be located on top of counters or, if on the wall, at least five feet above ground. Containers will not sit on the floor.

c. Disposal

When the disposal box is $\frac{1}{2}$ to $\frac{2}{3}$ full, the lid will be closed and locked, tape will be placed over the top of the lid to indicate that it is ready for disposal. The container will be labeled with the words "infectious waste" or with the universal biohazard symbol, and placed in the proper area for removal and disposal. Sharps will be considered as infectious waste and final disposal of the container and contents will be through a commercial contractor that handles disposal of infectious waste in accordance with all local and federal regulations.

The HSA will make arrangements for disposal with an approved contractor and is responsible for validating that the contractor's disposal methods are in accordance with all infectious and hazardous waste disposal laws and regulations. Arrangements will be made with local hospitals, if possible, for disposal with the hospitals' own infectious waste.

3. Accidental Needle Sticks

Should an individual receive a needle stick or be cut while handling potentially contaminated sharps, the individual will be counseled regarding baseline testing for HBV and HIV and referred to their usual source of health care. If the injury also involves a person who is a known source of possible infection, that person will also be tested for HBV and HIV. The incident will be reported as an occupational injury and documented in accordance with applicable regulations for commissioned officers and civil service employees, respectively.

The leading health service provider's exposure-control plan will be followed in the event of a needle stick.

R. General Environmental Health Guidelines

1. Environmental health conditions will be maintained at a level that meets recognized standards of hygiene. The standards include those from the American Correctional Association, the Occupational Safety and Health Administration, the Environmental Protection Agency, the Food and Drug Administration, the National Fire Protection Association's Life Safety Code, and the National Center for Disease Control and Prevention.

The INS HSD or IGSA equivalent activities are designed to assist in the identification and correction of conditions that could adversely impact the health of detainees, employees, and visitors. The INS sanitarian consultant is responsible for developing and implementing policies, procedures, and guidelines pertaining to activities of the environmental health program. These elements are intended to evaluate, and eliminate or control as necessary, both sources and modes of transmission of agents or vectors of communicable disease and of injuries.

The sanitation consultant will conduct special investigations and comprehensive surveys of environmental health conditions. Advisory, consultative, inspection and training services regarding environmental health conditions will also be provided through the sanitarian consultant.

The medical facility HSA is responsible for implementing a program that will assist in maintaining a high level of environmental sanitation. In consultation with the sanitarian consultant, they will provide recommendations to the INS OIC concerning environmental health conditions.

2. **Housekeeping**

The key to the prevention and control of nosocomial infections due to contaminated environmental surfaces is environmental cleanliness. Responsibility for ensuring the cleanliness of the medical facility lies with the HSA or with an individual designated by the HSA or other health care provider utilized. The HSA or designee will make a daily visual inspection of the medical facility noting the condition of floors, walls, windows, horizontal surfaces, and equipment.

Methods of cleaning; cleaning equipment; cleansers; disinfectants and detergents to be used; plus, the frequency of cleaning and inspections will be established using an acceptable health agency standard as the model.

Proper housekeeping procedures include the cleaning of surfaces touched by detainees or staff with fresh solutions of appropriate disinfectant products, applied with clean cloths, mops, or wipes. Cleaned surfaces need not be monitored microbiologically since the results of such tests have been shown not to correlate with infection risk. Floors, walls, beds, tables, and other surfaces that usually come in contact with intact skin require low-level disinfection.

Since these surfaces are rarely associated with the transmission of infections to patients or personnel, extraordinary attempts to disinfect or sterilize these surfaces are not indicated.

Horizontal surfaces in detainee care areas are cleaned on a regular basis, when soiling or spills occur and in short-stay units when a detainee is discharged. Cleaning of walls, blinds, or curtains is indicated only when visibly soiled. The Chief Nurse is responsible for training all staff and detainees in using proper housekeeping procedures and proper handling of hazardous materials and chemicals.

a. General Cleaning Procedures

1. All horizontal surfaces will be damp-dusted daily with an approved germicidal solution.
2. Windows, window frames, and windowsills will be cleaned on a regular schedule, but do not require daily cleaning.
3. Furniture and fixtures will be cleaned daily.
4. Floors will be mopped daily and when soiled using the double-bucket mopping technique, and with a hospital disinfectant-detergent solution mixed according to the manufacturers directions. A clean mop head will be used each time the floors are mopped.
5. Waste containers will be lined with plastic bags and the liner will be changed daily. The container itself will be washed at least weekly, or as needed when it becomes soiled.
6. Cubicle curtains will be laundered monthly or during terminal cleaning following treatment of an infectious patient.

b. Procedures for Isolation Cleaning

1. An approved germicidal detergent solution will be freshly prepared in accordance with the manufacturer's specifications for each cleaning.
2. After cleaning the isolation room, mops and cleaning cloths will be laundered before being reused.
3. Dirty water and used disinfecting solutions will be discarded and the buckets and basins disinfected before being refilled. Items used in cleaning an isolation (contaminated) room will never be taken into another area.

4. Linens will be carefully removed from the bed and double bagged for transport.
5. All waste materials will be double bagged and disposed of as contaminated waste.

c. Procedures for Terminal Cleaning

1. Every item in the room must be cleaned with an approved hospital germicidal solution.
2. When applicable, linen will be stripped from the bed, with care taken not to shake linen. Linen will be folded away from the person and folded inward into a bundle, then removed with minimal agitation.
3. When applicable, all reusable receptacles such as drainage bottles, urinals, bedpans, water pitchers will be emptied and rinsed with germicidal solutions.
4. All equipment that is not to be discarded, such as IV poles, respirators and suction machines, will be washed with an approved germicidal solution following manufacturer's guidelines for cleaning the specific piece of equipment.
5. When applicable, mattresses and pillows covered with durable plastic covers will be thoroughly washed with the approved germicidal solution.
6. When applicable, beds will be washed thoroughly using a small brush soaked in the germicidal solution to gain access to small holes and crevices, to areas between the springs, and the casters.
7. All furniture will be washed with a germicidal detergent solution. Use a small brush if necessary. Outside and underside as well as legs and casters must also be washed.
8. Wastebaskets will be thoroughly washed with a germicidal solution after trash has been removed.
9. Telephones will be thoroughly cleaned with a clean cloth soaked in the germicidal solution. The earpiece and mouthpiece will be unscrewed, scrubbed, dried and replaced.
10. Walls and ceilings need not be washed entirely, but areas that are obviously soiled will be washed with germicidal solution.

d. Choice of Disinfecting Materials

Hospital grade disinfectant-detergent formulations registered by the Environmental Protection Agency may be used for environmental surface cleaning, but the physical removal of microorganisms by scrubbing is probably as important as any antimicrobial effect of the cleaning agent used.

Therefore cost, safety, and acceptance by staff can be the criteria for selecting any such registered agent. *The manufacturer's instructions for use will be followed exactly.*

3. Blood and Body Fluid Clean-up

Spills of blood and body fluids will be cleaned up and the surface decontaminated in such a manner as to minimize the possibility of workers becoming exposed to infectious organisms, including HIV and HBV. A suitable cleanup kit will be maintained for use in cases of spills of blood and body fluids. Cleanup kits may be obtained from commercial sources, or kits may be put together by INS HSD staff or leading health care provider.

a. Making a Clean-up Kit

To prepare a cleanup kit for blood and body fluid spills, package the following materials in a 12" x 15" clear" Ziplock" bag.

Gloves, rubber or vinyl, household type, (2 pair)

Clean absorbent rags (4)

Absorbent paper towels (15)

Disposable bag marked "Contaminated" size 23"x10"x39", minimum thickness 1.5 mils.

Clear plastic bag 13"x10"x39", minimum thickness 1.5 mils.

Bottle of "hospital disinfectant" (containing quaternary ammonium chlorides in at least 0.8% dilution), or a bottle of household bleach such as "Clorox" or "Purex" (5.25 % sodium hypochlorite).

b. Selection of Disinfectants

Quaternary disinfectants are less effective against Hepatitis B, while dilute solutions of sodium hypochlorite are reported extremely effective against both HIV and the Hepatitis B virus, and therefore have been recommended for use in environmental decontamination procedures rather than quaternary

ammonium compounds. Chlorine in solution inactivates virus quickly and efficiently, but must reach the virus particles to do so. Proteinaceous materials may interfere with the ability of the appropriate disinfectant solution to reach the virus particles. Since quaternary disinfecting compounds may act as a detergent as well as a disinfectant, their use may help in the cleaning and removal of proteinaceous materials from surfaces. A facility may wish to use one of these compounds to help clean the surface, then follow with the use of chlorine solution for final disinfection. Using one disinfectant compound rather than two would keep the procedure as simple as possible. By following the mechanical procedure listed in the article, most blood or fluids would be removed from the surface before application of the disinfectant, so the use of sodium hypochlorite solution will be sufficient.

c. Selection of Gloves

Household or industrial rubber gloves have been recommended for use rather than surgical rubber gloves. Surgical gloves are somewhat porous and are less resistant to mechanical damage and punctures during cleanup procedures.

d. Use of Detainees as Housekeeping Workers

Detainee workers may be used to assist in cleaning the medical facility. Detainees will be allowed to clean floors, walls, and to remove trash, but will not be allowed to clean medical equipment.

4. Instructions for Use of Clean-Up Kit

- a. Obtain a Cleanup Kit.
- b. Open the bag.
- c. Remove supplies.
- d. Depending on the type of disinfectant you have included in your kit, take out bottle of "hospital disinfectant", or prepare a dilute solution of sodium hypochlorite. To prepare a 1:10 dilution of 5.25% sodium hypochlorite, mix 1 part of 5.25 % sodium hypochlorite (common household bleach) with 10 parts water.
- e. Open the large clear plastic bag and the large bag marked "Contaminated". Place them next to each other.
- f. Put on one pair of gloves.
- g. Use paper towels to absorb as much of the fluid as possible; then place paper towels in the large clear plastic bag.
- h. Pour solution carefully onto the spill area. Dispose of the empty bottle in the large, clear plastic bag. Leave disinfectant in place for 15 minutes.
- i. Use the rags to clean the area. Place rags in the large clear plastic bag.
- j. Tie off the clear plastic bag and place inside the large plastic bag marked "Contaminated".
- k. Remove gloves carefully and place in the plastic bag marked "Contaminated".

- l. Put on the second pair of gloves and tie the "Contaminated" trash bag closed.
- m. Dispose of the "Contaminated" trash bag properly in a contaminated-waste receptacle.
- n. Dispose of the second pair of gloves in the contaminated-waste receptacle.
- o. Wash your hands.
- p. Prepare a new clean-up kit.

NOTE: Do not place linen or non-disposable articles in the "Contaminated" trash bag.

5. Hazardous and Infectious Waste Disposal

Infectious and hazardous waste generated at a medical facility will be stored and disposed of safely and in accordance with all applicable federal and state regulations.

For identified wastes that represent sufficient risk of causing infection or injury during handling and disposal some special precautions appear prudent.

a. Definitions

Hazardous or infectious waste is defined as: microbiology laboratory waste; human blood and blood products; sharps (all discarded items derived from patient care in medical facilities which could potentially transmit disease via direct subdermal inoculation or present a risk of injury & skin penetration); laboratory and other chemicals; certain drugs such as neoplastic.

Miscellaneous biomedical waste is defined as waste materials that are not specifically defined as infectious waste. Such waste includes bandages, dressings, casts, catheters, and disposable pads.

Waste from detainees in isolation is not considered to be infectious waste unless it falls within the specific definition of infectious waste as stated above.

b. Collection and Storage

Infectious waste must be separated from the general waste stream and clearly labeled as infectious. Infectious waste will be double-bagged and tied and marked with a label reading "Infectious Waste". The bags must be impermeable, commercially supplied red bags, sold specifically for biohazardous waste storage. Miscellaneous biomedical waste will be double-bagged and tied, but need not be labeled as infectious.

c. Treatment and Disposal

Blood products and designated body fluids will be poured slowly and carefully down the toilet to prevent splash. Compacting of untreated infectious waste is prohibited. The waste disposal contractor must meet all state or and local requirements for transportation and disposal.

S. Universal Precautions

1. Staff will routinely take precautions to prevent contact with blood or other body fluids, using these guidelines:
 - a. Gloves will be worn for touching blood and body fluids, mucous membranes, or non-intact skin of all patients, for handling items or surfaces soiled with blood or body fluids, and for performing venipuncture and other vascular access procedures. Gloves will be changed after contact with each detainee.
 - b. Masks and protective eye wear or face shields will be worn during procedures that are likely to generate droplets of blood or other body fluids, to prevent exposure of mucous membranes of the mouth nose or eyes.
 - c. Gowns or aprons will be worn during procedures that are likely to generate splashes of blood or other body fluids.
 - d. Hands and other skin surfaces will be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands will be washed immediately after gloves are removed.
 - e. All health-care workers will take precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures.
 - f. To prevent needle stick injuries, needles will not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After use, disposable syringes and needles, scalpel blades, and other sharp items will be placed in puncture-resistant containers for disposal.
 - g. Large-bore reusable needles will be placed in a puncture resistant container for transport to the reprocessing area.
 - h. Although saliva has not been implicated in HIV transmission, to minimize the need for emergency mouth-to-mouth resuscitation, mouthpieces, resuscitation bags or other ventilation devices will be available for use in areas in which the need for resuscitation is predictable.

- I. Health-care workers who have exudative lesions or weeping dermatitis will refrain from all direct patient care and from handling patient-care equipment until the condition resolves.
- j. Pregnant health-care workers are not known to be at greater risk of contracting HIV infection than health-care workers who are not pregnant; however, if a health care worker develops HIV infection during pregnancy, the infant is at risk of infection from perinatal transmission. Because of this risk, pregnant health care workers will be especially familiar with and strictly adhere to precautions to minimize the risk of HIV transmission.
- k. Implementation of universal blood and body fluid precautions for all detainees eliminates the need for the use of isolation category of "Blood and Body Fluid Precautions" previously recommended by the Centers for Disease Control for individuals known or suspected to be infected with blood-borne pathogens. Isolation precautions will be used as necessary if associated conditions, such as infectious diarrhea or tuberculosis, are diagnosed or suspected.

T. Protective Equipment

- 1. Protective eye and face equipment will be required where there is a reasonable probability of injury that can be prevented by such equipment. These areas of the facility will be conspicuously marked with eye hazard warning signs.
- 2. OSHA-approved eyewash stations will be installed in designated areas throughout the facility. All employees and detainees in those areas will be instructed in their use.

U. Garbage and Refuse

- 1. Refuse includes all garbage, rubbish, and other putrescible and non-putrescible solid waste, except the solid and liquid waste discharged into the sanitary sewer system of the facility.
- 2. Garbage and refuse will be collected and removed as often as necessary to maintain sanitary conditions and to avoid creating health hazards.
- 3. Methods for handling and disposing of refuse affects the local environment, compliance with the requirements of local and federal agencies is essential.

IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED

American Correctional Association 3rd Edition, Standards for Adult Detention Facilities:
3-ALDF-3B-01, 3B-02, 3B-05, 3B-10, 3B-11, 3B-12.4D-01, 4D-03, 4D-13

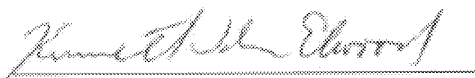
Approval of Standard



Michael D. Cronin
Acting Executive Associate Commissioner
Office of Programs

SEP 20 2000

Date



Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

SEP 20 2000

Date

INS DETENTION STANDARD

SPECIAL MANAGEMENT UNIT (Administrative Segregation)

I. POLICY

Each facility will establish a Special Management Unit that will isolate certain detainees from the general population. The Special Management Unit will have two sections, one for detainees in Administrative Segregation; the other for detainees being segregated for disciplinary reasons (see the "Special Management Unit [Disciplinary Segregation]" Standard).

II. APPLICABILITY

The standards provided in this Detention Standard shall apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard

See the separate "Definitions" Standard for the meaning of certain terms used in this document

III. STANDARDS AND PROCEDURES

A. Placement in Administrative Segregation

Administrative segregation is a non-punitive form of separation from the general population used when the continued presence of the detainee in the general population would pose a threat to self, staff, other detainees, property, or the security or orderly operation of the facility. Others in this housing status includes detainees who require protective custody, those who cannot be placed in the local population because they are en route to another facility (holdovers), those who are awaiting a hearing before a disciplinary panel, and those requiring separation for medical reasons.

Administrative segregation status is a non-punitive status in which restricted conditions of confinement are required only to ensure the safety of detainees or others, the protection of property, or the security or orderly running of the facility.

The facility shall develop and follow written procedures consistent with this standard.

In SPCs/CDFs:

1. *Prior to the detainee's placement in administrative segregation, the Officer in Charge (OIC) and Supervisory Detention Enforcement Officers (SDEO) or CDF equivalent will review the case to determine whether administrative segregation is warranted.*
2. *The OIC may delegate authority to place a detainee in administrative segregation to the SDEO.*
3. *A detainee may be placed in administrative segregation when the detainee's continued presence in the general population poses a threat to life, property, self, staff, or other detainees; for the secure or orderly operation of the facility; for medical reasons, etc. Examples include, but are not limited to the following:*
 - a. *A detainee is awaiting an investigation or a hearing for a violation of facility rules. Pre-disciplinary hearing detention should be ordered only as necessary to prevent further rules violation(s) or to protect the security and orderly operation of the facility. It is not to be used as a punitive measure. Time served in pre-hearing detention may be deducted from any time ordered by the Institutional Disciplinary Panel (IDP).*
 - b. *A detainee is a threat to the security of the facility. The OIC may determine that a detainee's criminal record, past behavior at other institutions, behavior while in INS detention, or other evidence is sufficient to warrant placing the detainee in administrative segregation. Copies of records supporting this action will be attached to the Administrative Segregation Order.*
 - c. *A detainee requires protection. Protective custody (PC) may be initiated at the detainee's request or ordered to protect the detainee from harm. Examples include:*
 1. *Victims of detainee assaults;*
 2. *Detainee informants/witnesses - detainees who provide information to the institution staff or any law enforcement agency concerning improper activities by others;*
 3. *Sexual predators;*

4. *Detainees who have been pressured by other detainees to participate in sexual activity;*
 5. *Detainees who request PC;*
 6. *Detainees who refuse to enter the general population because of alleged intimidation from other detainees;*
 7. *Detainees who refuse to return to the general population, but who will not provide the reason for refusal;*
 8. *Detainees who appear to be in danger of bodily harm; or*
 9. *Detainees who seek protection, claiming to be former law enforcement officers or to have held a sensitive law enforcement position, whether or not there is official information to verify the claim.*
- d. *The IDP may order a detainee into administrative segregation following disciplinary segregation after determining that releasing the detainee into the general population would pose a threat to the security and orderly operation of the facility. A detainee transferred from disciplinary segregation to administrative segregation shall enjoy the same privileges as all others in administrative segregation.*
- e. *A medical professional ordering a detainee removed from the general population shall complete and sign the Administrative Segregation Order, unless the detainee will stay in the medical department's isolation/segregation ward.*
- f. *A detainee is scheduled for release, removal, or transfer within 24 hours. Such segregation may be ordered for security reasons or for the orderly operation of the facility.*

B. Administrative Segregation Order

A written order shall be completed and approved by a supervisory officer before a detainee is placed in administrative segregation, except when exigent circumstances make this impracticable. In such cases, an order shall be prepared as soon as possible. A copy of the order shall be given to the detainee within 24 hours, unless delivery would jeopardize the safety, security, or orderly operation of the facility.

In SPCs/CDFs:

1. *The OIC shall complete the Administrative Segregation Order (I-885 attached), detailing the reasons for placing a detainee in administrative segregation, before actual placement.*
2. *In an emergency, the detainee's placement in administrative segregation may precede the paperwork, which the OIC will prepare as soon as possible.*
3. *All memoranda, medical reports, and other relevant documents shall be attached to the segregation order.*
4. *A copy of the completed Administrative Segregation Order will be given to the detainee within 24 hours of placement in administrative segregation, unless delivery would jeopardize the safe, secure, or orderly operation of the facility.*
5. *The order will remain on file with the Special Management Unit (SMU) until the detainee is returned to the general population.*
6. *When the detainee is released from the SMU, the releasing officer will indicate date and time of release on the Administrative Segregation Order, then forward the completed order to the Chief Detention Enforcement Officer for insertion into the detainee's detention file.*
7. *If the segregation is ordered for PC purposes, the order shall state whether the detainee requested the segregation; also, whether the detainee requests a hearing concerning the segregation.*
8. *No Administrative Segregation Order is required for a detainee awaiting removal, release, or transfer within 24 hours.*

C. Review of Detainee Status in Administrative Segregation

All facilities shall implement written procedures for the regular review of all administrative-detention cases, consistent with the procedures specified below.

In SPCs/CDFs, a supervisory officer shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted. The review shall include an interview with the detainee. A written record shall be made of the decision and the justification. The Administrative Segregation Review Form (I-885) will be used for the review. If the detainee has been segregated for the detainee's protection, but not at the detainee's request, the signature of the OIC or Assistant OIC is required on the I-885 to authorize continued detention.

A supervisory officer shall conduct the same type of review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first month and at least every 30 days thereafter. The review shall include an interview with the detainee. A written record shall be made of the decision and the justification.

A copy of the decision and justification for each review shall be given to the detainee, unless, in exceptional circumstances, this provision would jeopardize security. The detainee shall be given an opportunity to appeal a review decision to a higher authority within the facility.

The Assistant District Director, Detention and Removal shall be notified when any INS detainee has been in administrative detention for more than 30 days. This notification shall be made through the on-site INS OIC, if one is posted at the facility. When a detainee is held in administrative segregation for more than 60 days, the Office of the Assistant Regional Director for Detention and Removal shall be notified by the Assistant District Director, Detention and Removal, in writing of the reasons. The Region shall then consider whether transfer of the detainee to a facility where he/she may be placed in the general population would be appropriate.

If an INS detainee has been in administrative segregation for more than 30 days and objects to this status, the OIC shall review the case to determine whether that status should continue. This review shall take into account the views of the detainee. A written record shall be made of the decision and the justification. A similar review shall take place every 30 days.

After seven consecutive days in administrative segregation, the detainee may exercise the right to appeal to the OIC the conclusions and recommendations of any review conducted. The detainee may use any standard form of written communication, e.g., detainee request, to file the appeal.

D. Conditions of Administrative Segregation (Basic Living Standards)

1. Detainees in administrative segregation shall receive the same general privileges as detainees in the general population, consistent with available resources and security considerations.
2. The quarters used for segregation shall be well ventilated, adequately lit, appropriately heated and maintained in a sanitary condition at all times. All cells must be equipped with beds. The beds shall be securely fastened to the cell floor or wall.
3. The number of detainees confined to each cell or room in administrative segregation should not exceed the capacity for which it was designed. The OIC may approve excess occupancy, on a temporary basis, if the OIC finds that the other basic living standards can still be maintained.

The American Correctional Association Standards for Adult Local Detention Facilities, 3-ALDF-2C-01, 3rd Edition, requires 35 square feet of unencumbered space for a single cell occupant; if confinement exceeds 10 hours per day, the required space doubles to at least 70 square feet.

4. Clothing and bedding shall be issued to detainees in administrative segregation in accordance with the "Issuance and Exchange of Clothing, Bedding, Linen and Towels" standard. Detainees in administrative segregation will be provided the same opportunity for the exchange of clothing, bedding, and linen, and for laundry as detainees in the general population.

In SPCs/CDFs, a detainee in administrative segregation may wear normal institutional clothing and shall be furnished a mattress and bedding. A detainee may not be segregated without clothing, mattress, blankets and pillow, except:

- a. *When prescribed by a medical professional for medical or psychiatric reasons. If a detainee is so seriously disturbed that he/she is likely to destroy clothing or bedding, or to create a disturbance putting self or others at risk, the medical department shall be consulted immediately to determine whether a regimen of treatment and control may be instituted.*
- b. *When the shift supervisor determines the detainee poses a threat to self or property.*

Exceptions shall occur only when necessary for security purposes, as determined by the OIC. Any exception, and the reasons, shall be recorded in the housing unit log.

5. Detainees in administrative segregation shall receive three nutritionally adequate meals per day, from the menu served to the general population. For security purposes, detainees in the SMU shall use disposable utensils only. Under no circumstances shall food be used as punishment.
6. Segregated detainees shall have the opportunity to maintain a normal level of personal hygiene. Staff shall provide toilet tissue, a wash basin, tooth brush, shaving utensils, etc., as needed, and may issue retrievable kits of toilet articles.

Each segregated detainee shall have the opportunity to shower and shave at least three times a week, unless these procedures would present an undue security hazard. This security hazard will be documented and signed by the OIC, indicating his/her review and approval. Denial of showers will be temporary and situational, and will continue only as long as justified by the security threat.

7. Detainees in administrative segregation will be provided, where practicable, barbering services. Exceptions to this procedure may be permitted only when found necessary by the OIC.
8. Recreation shall be provided to detainees in administrative segregation in accordance with the "Recreation" standard.

These provisions shall be carried out, absent compelling security or safety reasons documented by the OIC. A detainee's recreation privileges may be withheld temporarily after a severely disruptive incident. Staff shall document by memorandum and logbook(s) notation every instance when a detainee is denied recreation. The memorandum shall be placed in the detainee's detention file.

When space and resources are available, detainees in administrative segregation will be able to participate in TV viewing, board games, socializing and work details (e.g., an orderly in the SMU); and provided opportunities to spend time outside their cells, over and above recreation periods.

9. The OIC will issue guidelines concerning the property that detainees may retain in administrative segregation.
10. A reasonable amount of non-legal reading material will be available to detainees in administrative segregation. The detainee will also be permitted religious material, unless the religious item would pose a threat to security

In SPCs/CDFs, the Recreation Specialist (RS) shall provide a reasonable amount of softbound, non-legal reading material, not to exceed two books per detainee at any one time, on a circulating basis.

11. Detainees in administrative segregation will be permitted to retain a reasonable amount of personal legal material, unless this would create a security threat. If personal legal material is placed in storage, the detainee shall be able to access the material promptly, upon request.

In SPCs/CDFs, detainees will be permitted to retain all personal legal material upon admittance to segregation, provided such material does not create a safety, security and/or sanitation hazard. Detainees with a large amount of personal legal material may be required to place a portion of the material in their personal property, with access permitted during designated hours. Requests to access such legal material should be met as soon as possible, but in no case longer than twenty-four (24) hours after receipt of the initial detainee request to retrieve documents, unless documented security concerns preclude action within this time-frame.

12. A medical professional shall visit every detainee in administrative segregation at least three times a week. In addition to the direct supervision afforded by the unit officer, the shift supervisor shall see each segregated detainee daily, including weekends and holidays.

In SPCs/CDFs, the OIC may designate other staff officers to visit each detainee daily. A nurse, doctor or other appropriate health care professional shall visit every detainee placed in administrative segregation at least once every workday. The medical visit shall be notated on the SMU Housing Record (Form I-888). The medical professional will question each detainee to identify medical problems or requests. Any action taken will be documented in a separate logbook.

13. The facility shall follow the "Visitation" standard in setting visitation rules for detainees in administrative segregation. Ordinarily, a detainee retains visitation privileges while in administrative segregation.
14. In facilities that permit contact visits, all efforts should be made to allow the detainee to utilize the visiting room during normal visiting hours. The determining factor is the reason the detainee is in segregation. Detainees in PC will not use the visitation room during normal visitation hours. In addition, violent and disruptive detainees may be limited to non-contact visitation. In extreme cases, even non-contact general visitation may be disallowed for a particular detainee where the visit would present an unreasonable security risk.

Under no circumstances are detainees to participate in general visitation while in restraints. If the detainee's behavior warrants restraints, the visit will not be granted.

General visitation may be restricted or disallowed when a detainee, while in an administrative segregation status, is charged with, or has been found to have committed, a prohibited act having to do with visiting guidelines or has otherwise acted in a way that would reasonably indicate that he or she would be a threat to the orderliness or security of the visiting room.

Detainees in administrative segregation may not be denied legal visitation, but reasonable security precautions will be taken where necessary. Legal service providers and assistants will be notified of any security concerns prior to the meeting.

15. Detainees in administrative segregation shall have the same correspondence privileges as detainees in the general population.
16. The facility shall follow the "Telephone Access" standard that provides guidelines for detainees in administrative segregation. Detainees in administrative segregation will be permitted telephone access similar to that provided to detainees in the general population, but in a manner consistent with the special security and safety requirements of detainees in these units.

17. Members of the clergy may visit detainees in administrative segregation, unless the shift supervisor determines the visit presents a security risk or will interfere with the orderly operating of the facility.

Violent and uncooperative detainees may be temporarily denied access to religious services until such time as their behavior and attitude warrants.

18. Detainees housed in administrative segregation shall have the same law library access as the general population, consistent with security, although the facility may establish a policy of upon-request-only access. The level of supervision will depend on the individual's behavior and attitude.
19. Detainees in the SMU for protective custody will be required to use the law library separately or will have requested legal material delivered to them.
20. Detainees in administrative segregation shall have the same correspondence privileges as detainees in the general population (see the "Correspondence and Other Mail" standard).

E. Forms and Reviews

1. A permanent log will be maintained in the SMU. The log will record all activities concerning the SMU detainees, e.g., meals served, recreation, visitors, etc.

In SPCs/CDFs, the SMU log will record the detainee's name, A-number, housing location, date admitted, reasons for admission, tentative release date (for detainees in disciplinary segregation), and the authorizing official. All releases from the unit will be similarly recorded. All persons visiting the unit will sign a separate log, giving time and date of visit. Unusual activity or behavior of individual detainees will be recorded in the log, with a follow-up memorandum sent through the OIC to the detainee's file.

2. *The attached Special Management Housing Unit Record (Form I-888) shall be prepared immediately upon the detainee's placement in the SMU. The form will be filled out at the end of each shift. CDFs and IGSA facilities shall use the I-888 or a comparable form for the same purpose.*

The special housing officer for each shift will record whether the detainee ate, showered, exercised and took any medication. The record will also be used to notate additional information, e.g., if the detainee has a medical condition, has exhibited suicidal/assaultive behavior, etc.

The facility medical officer will be required to sign each individual record when he/she visits the detainee in administrative segregation. The housing officer will initial the record either after the medical visits are completed or at the end of the shift.


A new record must be created for each week the detainee is in administrative segregation. The completed weekly Special Housing Unit Records will be retained at the SMU until the detainee is released from SMU.

Upon release from the SMU, the releasing officer will ensure that the entire housing unit record relating to the detainee is attached to the Administrative Segregation Order and forwarded to the CDEO for inclusion in the detainee's detention file.

3. *The attached I-885 shall be used for formal status reviews (see section III.C., above).*

- IV. **AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED**
 American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-3D-01, 3D-02, 3D-03, 3D-05, 3D-06, 3D-09, 3D-11, 3D-12, 3D-13, 3D-14, 3D-15, 3D-16, 3D-17, 3D-18, 3D-19, 3D-20, 3D-21, 3D-22, 3D-24.

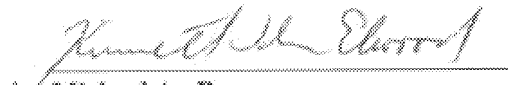
Approval of Standard



 Michael D. Cronin
 Acting Executive Associate Commissioner
 Office of Programs

SEP 20 2000

Date



 Michael A. Pearson
 Executive Associate Commissioner
 Office of Field Operations

SEP 20 2000

Date

U.S. Department of Justice
Immigration and Naturalization Service

Administrative Segregation Order

To: _____

From: _____ Title: _____

Detainee: _____ A#: _____

The Above Named Detainee Is to Be Admitted to Administrative Segregation For The Following Reason(s):

- _____ (A) Is pending an investigation/hearing for the commission of a prohibited act or rule violation and requires pre-hearing detention.
- _____ (B) Is under medical observation (medical staff must comment and sign this Order).
- _____ (C) Is pending a transfer or release within 24 hours.
- _____ (D) Is terminating confinement in Disciplinary Segregation and has been ordered in Administrative Segregation by the Disciplinary Panel.
- _____ (E) Is a security risk to him/herself or the security of the facility.
- _____ (F) Detainee has requested admission for Protective Custody.

I hereby request placement in the Administrative Segregation unit for my own protection. **I do** **do not** request a hearing concerning my segregation.

Detainee: _____ A-number: _____ Date: _____

Record below, a brief outline of the circumstances and the names of any witnesses to events leading to placement in Administrative Segregation.

Medical Officer: _____

Admitted by: _____

Admitted: (Date): _____

Title: _____

Time: _____

Released by: _____

Released: (Date) _____

Title: _____

Time: _____

U.S. Department of Justice
Immigration and Naturalization Service

Administrative Segregation Review

On _____ Supervisory Detention Enforcement Officer (SDEO) or contract equivalent _____
Date _____ (Officer)

conducted a formal review of the Special housing status of _____ A# _____ who is presently in:
(detainee)

Protective Custody Status Other Administrative Segregation _____
Medical Segregation

Authorizing Supervisor: _____

Authorizing USPHS Officer (if segregation is for medical reasons): _____

Detainee has been in Administrative Segregation for _____ days.

The following factors were reviewed with the results as indicated:

	YES	NO
1. Does the reason for initial placement remain valid?	<input type="checkbox"/>	<input type="checkbox"/>
2. Does the detainee pose a threat to himself?	<input type="checkbox"/>	<input type="checkbox"/>
3. Does the detainee pose a threat to others?	<input type="checkbox"/>	<input type="checkbox"/>
4. Does the detainee pose a threat to property?	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the detainee pose a threat to security?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the detainee defiant towards authority?	<input type="checkbox"/>	<input type="checkbox"/>
7. Is the detainee unwilling or unable to live in the general population?	<input type="checkbox"/>	<input type="checkbox"/>
8. Is the detainee's habitual conduct, language, or behavior of a type which may provoke or instigate stressful/violent situations amongst the general population?	<input type="checkbox"/>	<input type="checkbox"/>

If any of the above factors are marked "YES", the detainee must continue his/her existing status, unless the OIC determines otherwise. If all factors are marked "NO," the detainee may be released.

DOCUMENT REVIEW

1. Is the detainee being offered three showers/week and taken showers?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the detainee exercising at least one hour daily, 5 days a week?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the detainee being offered three meals daily and consuming at least one meal daily?	<input type="checkbox"/>	<input type="checkbox"/>
4. Is the detainee receiving daily visits from medical staff?	<input type="checkbox"/>	<input type="checkbox"/>
5. Are the special housing officers signing and properly filling out the special housing unit record?	<input type="checkbox"/>	<input type="checkbox"/>

A "NO" answer to any of the above questions will require notification of the Detention Operations Supervisor or officer of equal or greater rank.

I state that the initial reason for my placement in Protective Custody (PC) no longer remains valid. I am requesting removal from PC status. Translation into the Spanish or other language provided by _____.

Detainee Signature: _____ Date/Time: _____

For the reasons above, I recommend do not recommend removal from PC status.

SDEO signature: _____ Date/Time: _____

- Concur with Recommendation
- Release
- Continue Status

_____/_____
Officer in Charge Date

U.S. Department of Justice
 Immigration and Naturalization Service

Special Management Unit Housing Record

Name of Detainee: _____ A#: _____ Room#: _____

Violation or Reason: _____ Received Date: _____ Time: _____

Admittance Authorized by: _____ Release Date: _____ Time: _____

Pertinent Information: _____

Date	Shift	B	L	D	Sh	Rec	Medical *	Housing Officer	Comments
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								

Pertinent Information - Epileptic, Diabetic, Suicidal, Assaultive, etc.

B (Breakfast) **L** (Lunch) **(D)** Dinner **(Sh)** Showers -- **Indicate Yes or No**
Rec (Recreation) -- log in actual time, i.e., 0900/1000

* Medical representative will initial in the medical block on the special housing unit record daily.

**U.S. Immigration and Naturalization Service
NATIONAL DETENTION STANDARDS
MONITORING INSTRUMENT**

Policy: The Special Management Unit required in every facility isolates certain detainees from the general population. The Special Management Unit will consist of two sections. One, Administrative Segregation, houses detainees isolated for their own protection; the other for detainees being disciplined for wrongdoing (see the "Special Management Unit [Disciplinary Segregation]" standard).

SPECIAL MANAGEMENT UNIT (SMU) Administrative Segregation			
Components	Yes	No	Remarks
1. Does the Administrative Segregation unit provide non-punitive protection from the general population and individuals undergoing disciplinary segregation? a. Is a detainee placed in the SMU (administrative) in accordance with written criteria?			
2. Can staff place a detainee in the SMU (administrative) before a written order has been approved? a. Is a copy of the order given to the detainee within 24 hours? b. If not, why?			
3. Does the OIC regularly review the status of detainees in administrative detention? a. Does a supervisory officer conduct a review within 72 hours of the detainee's placement in the SMU (administrative)?			
4. Does a supervisory officer conduct another review after the detainee has spent seven days in administrative segregation? a. Every week thereafter for the first month? b. Every 30 days after the first month? c. Does each review include an interview with the detainee? d. Is a written record made of the decision and the justification?			

SPECIAL MANAGEMENT UNIT (SMU) Administrative Segregation			
Components	Yes	No	Remarks
5. Is the detainee given a copy of the decision and justification for each review? a. If not, why not? b. Is the detainee given an opportunity to appeal the reviewer's decision to someone else in the facility?			
6. Does the OIC routinely notify the Assistant District Director, Detention and Removal (ADD/DRO), any time a detainee's stay in administrative detention exceeds 30 days? a. Upon notification that the detainee's administrative segregation has exceeded 60 days, does the ADD/DRO forward written notice to the Assistant Regional Director? b. How often does INS transfer detainees still in the SMU after 60 days to a facility they will not require administrative segregation?			
7. Does the OIC review the case of every detainee who objects to administrative segregation after 30 days in the SMU? a. Is a written record made of the decision and the justification? b. Does the detainee receive a copy of this record?			
8. Is the detainee given the right to appeal to the OIC the conclusions and recommendations of any review conducted after the detainee has remained in administrative segregation for seven consecutive days? a. Does the detainee use any acceptable forms of written communication to file the appeal, e.g., detainee request?			
9. Do administratively segregated detainees enjoy the same general privileges as detainees in the general population? a. If not, explain.			

SPECIAL MANAGEMENT UNIT (SMU)			
Administrative Segregation			
Components	Yes	No	Remarks
10. Is the SMU well ventilated? a. Adequately lighted? b. Appropriately heated? c. Maintained in a sanitary condition?			
11. Are all cells equipped with beds? a. If yes, is every bed securely fastened to the floor or wall?			
12. Does the number of detainees in any cell exceed the occupancy limit? a. Does the OIC approve excess occupancy on a case-by-case basis? b. When occupancy exceeds recommended capacity, do basic living standards decline? c. Do criteria for objectively assessing living standards exist? d. If yes, are the criteria included in the written procedures?			
13. Do the segregated detainees have fewer opportunities to exchange/laundry clothing, bedding, and linen than detainees in the general population?			
14. Do detainees receive three nutritious meals per day? a. From the general population's menu of the day? b. Do detainees eat only with disposable utensils? c. Is food ever used as punishment?			
15. Can each detainee maintain a normal level of personal hygiene in the SMU? a. Do the detainee have the opportunity to shower and shave at least three times a week? b. If not, explain.			

SPECIAL MANAGEMENT UNIT (SMU) Administrative Segregation			
Components	Yes	No	Remarks
16. Are the detainees provided: a. Barbering services? b. Recreation privileges in accordance with the "Detainee Recreation" standard? c. Non-legal reading material? d. Religious material? e. The same correspondence privileges as detainees in the general population? f. Telephone access similar to that of the general population? g. Personal legal material?			
17. Does a health care professional visit every detainee at least three times a week? a. Does the shift supervisor visit each detainee daily? b. Weekends and holidays?			
18. Do procedures comply with the "Visitation" standard? a. Does the detainee retain visiting privileges? b. Is the visiting room available during normal visiting hours?			
19. Are visits from clergy allowed?			
20. Do the detainees have less law-library access than the general population? a. Are they required to use the law library separately, as a group? b. Are legal materials brought to them?			
21. Does the SMU maintain a permanent log? a. If yes, does it register every detainee-related activity, e.g., meals served, recreation, visitors etc.?			
22. Do SPC procedures include completing the SMU Housing Record (I-888) immediately upon a detainee's placement in the SMU? a. Does staff complete the form at the end of each shift? b. Do CDFs and IGSA facilities use Form I-888 (or local equivalent)?			

SPECIAL MANAGEMENT UNIT (SMU) Administrative Segregation			
Components	Yes	No	Remarks
23. Does staff record whether the detainee ate, showered, exercised and took any medication during every shift? a. Does the log record all pertinent information, e.g., a medical condition, suicidal/assaultive behavior, etc.? b. Does the medical officer/health care professional sign each individual's record during each visit? c. Does the housing officer initial the record when all detainee services are completed or at the end of the shift?			
24. Is a new record created for each week the detainee is in Administrative Segregation? a. Are these weekly records retained in the SMU until the detainee's return to the general population?			

**U.S. Immigration and Naturalization Service
NATIONAL DETENTION STANDARDS
MONITORING INSTRUMENT**

SPECIAL MANAGEMENT UNIT (SMU) Administrative Segregation

Verification Sources:

The following may serve as sources of information for auditors verifying the facility's compliance with this detention standard:

SOURCE	TIME	DATE	LOCATION
A. SMU Observation			
B. SMU logs			
C. Review of the facility's Administrative Segregation policy and procedures			
D. Detainee and staff interviews			
E. *Other			

Facilities must complete the attached Plan of Action for bringing operations into compliance. For each element found out of compliance, the plan of action will specify remedial action and the estimated timetable for compliance.

***Remarks:** *(Record significant facts, observations, other sources used, etc.)*

Auditor's Signature

Date

INS DETENTION STANDARDS

SPECIAL MANAGEMENT UNIT (Disciplinary Segregation)

I. POLICY

Each facility will establish a Special Management Unit that will isolate certain detainees from the general population. The Special Management Unit will have two sections, one for detainees being segregated for disciplinary reasons; the other for detainees being segregated for administrative reasons (see "Special Management Unit [Administrative Segregation]" Standard).

II. APPLICABILITY

The standards provided in this Detention Standard shall apply to the following facilities housing INS detainees:

1. Service Processing Centers (SPCs);
2. Contract Detention Facilities (CDFs); and
3. State or local government facilities used by INS through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours; referred to as "IGSA facilities."

Within the document additional implementing procedures are identified for SPCs and CDFs. Those procedures appear in italics. IGSA facilities may find such procedures useful as guidelines. IGSAs may adopt, adapt or establish alternatives to, the procedures specified for SPCs/CDFs, provided they meet or exceed the objective represented by each standard

See the separate "Definitions" Standard for the meaning of certain terms used in this document.

III. STANDARDS AND PROCEDURES

A. Placement in Disciplinary Segregation

To provide detainees in the general population a safe and orderly living environment, facility authorities shall discipline anyone whose behavior does not comply with facility rules and regulations. This may involve temporary confinement apart from the general population, in the Special Management Unit (SMU). A detainee may be placed in disciplinary segregation only by order of the Institutional Disciplinary Committee, after a hearing in which the detainee has been found to have committed a prohibited act.

The disciplinary committee may order placement in disciplinary segregation only when alternative dispositions would inadequately regulate the detainee's behavior.

A maximum sanction of 60 days in disciplinary segregation shall apply to violations associated with a single incident. After the first 30 days, the OIC shall send a written justification to the Assistant District Director for Detention and Removal (ADD/DRO). Considering the grounds for the OIC's disciplinary action, the ADD/DRO may decide to transfer the detainee to a facility where security is such that he/she could be placed in the general population.

B. Disciplinary Segregation Order

A written order shall be completed and signed by the chair of the Institutional Disciplinary Committee panel before a detainee is placed in disciplinary segregation. A copy of the order shall be given to the detainee within 24 hours, unless delivery would jeopardize safety, security, or the orderly operation of the facility.

In SPCs/CDFs:

- 1. The Institutional Disciplinary Panel's chairman shall prepare the Disciplinary Segregation Order (I-883 attached), detailing the reasons for placing a detainee in disciplinary segregation, before actual placement. All relevant documentation must be attached to the order.*
- 2. A copy of the completed Disciplinary Segregation Order will be given to the detainee within 24 hours of placement in disciplinary segregation, unless delivery would jeopardize the safe, secure, or orderly operation of the facility.*
- 3. The order will be maintained on file with the Special Management Unit (SMU) until the detainee is released from the SMU.*
- 4. When the detainee is released from the SMU, the releasing officer will indicate date and time of release on the Disciplinary Segregation Order, then forward the completed order to the Chief Detention Enforcement Officer for insertion into the detainee's detention file.*

C. Review of Detainee Status in Disciplinary Segregation

All facilities shall implement written procedures for the regular review of all disciplinary-segregation cases, consistent with the procedures specified below.

In SPCs/CDFs:

- 1. The Supervisory Detention Enforcement Officer (SDEO) shall review the status of a detainee in disciplinary segregation every seven days to determine whether the detainee:*

- a. *abides by all rules and regulations; and,*
- b. *is provided showers, meals, recreation, and other basic living standards, in accordance with section III.D., below.*

The weekly review(s) will include an interview with the detainee. The SDEO shall document his/her findings after every review, by completing a Disciplinary Segregation Review Form (I-887).

2. *The SDEO may recommend the detainee's early release from the SMU upon finding that time in disciplinary segregation is no longer necessary to regulate the detainee's behavior.*
3. *An early-release recommendation must have OIC approval before the detainee can be returned to the general population.*
4. *The SDEO may shorten, but not extend, the original sanction.*
5. *All review documents shall be placed in the detainee's detention file.*
6. *Provided institutional security is not compromised, the detainee shall receive at each formal review, a written copy of the reviewing officer's decision and the basis for this finding.*

D. Conditions of Segregation (Basic Living Standards)

1. The conditions of confinement will depend on the amount of supervision required to control the individual and safeguard other detainees and staff.
2. Detainees housed in disciplinary segregation generally have fewer privileges than those housed in administrative segregation. These detainees are subject to more stringent personal property control, restricted reading material, and limitations imposed on television viewing, commissary/vending machine privileges, etc.
3. Standard living conditions shall not be modified for detainees in the SMU for disciplinary purposes.
4. The OIC shall maintain the same living levels of decency and humane treatment for each detainee in disciplinary segregation, regardless of the purpose for which the detainee has been segregated. When different treatment is required for security concerns presented by an individual detainee, staff shall prepare written documentation justifying this action. This document will be signed by the OIC, indicating his/her approval.

5. Dry cells may not be a part of the disciplinary segregation unit. Dry cells will be a part of the medical facility and under the supervision and control of the medical staff.
6. The quarters used for segregation must be well ventilated, adequately lit, appropriately heated and maintained in a sanitary condition at all times. All cells must be equipped with beds. The beds shall be securely fastened to the cell floor or wall.
7. The number of detainees confined to each cell or room in disciplinary segregation should not exceed the capacity for which it was designed. The OIC may approve excess occupancy, on a temporary basis, if the OIC finds that the other basic living standards can still be maintained.

The American Correctional Association Standards for Adult Local Detention Facilities, 3-ALDF-2C-01, 3rd Edition, requires 35 square feet of unencumbered space for a single cell occupant; if confinement exceeds 10 hours per day, the required space doubles to at least 70 square feet.

8. Clothing and bedding shall be issued to detainees in disciplinary segregation in accordance with the "Issuance and Exchange of Clothing, Bedding, Linen and Towels" standard. Detainees in disciplinary segregation will be provided the same opportunity for the exchange of clothing, bedding, and linen, and for laundry as detainees in the general population. If, for security purposes, the OIC authorizes an exception, the exception, and its justification, shall be documented in the SMU log.
9. A detainee may be deprived of clothing, mattress, blanket, pillow, etc., for medical or psychiatric reasons only, as determined by the medical officer.

If a detainee is so seriously disturbed that he/she is likely to destroy clothing or bedding or create a disturbance risking harm to self or others, the medical department shall be notified immediately and a regimen of treatment and control shall be instituted by the medical officer.

10. Detainees shall receive their meals according to the schedule used by the general population. Detainees in segregation will be provided nutritionally adequate meals, ordinarily from the menu served to the general population.

Detainees in the SMU shall, for security reasons, eat with disposable utensils. Food shall not be used as punishment

11. Segregated detainees shall have the opportunity to maintain a normal level of personal hygiene. Staff shall provide toilet tissue, a wash basin, tooth brush, shaving utensils, etc., as needed, and may issue retrievable kits of toilet articles.

Each segregated detainee shall have the opportunity to shower and shave at least three times a week, unless these procedures would present an undue security hazard.

- a. The security hazard will be documented and signed by the OIC, indicating his/her review and approval.
 - b. Denial of showers will be temporary and situational, and will continue only as long as justified by the security threat.
12. Detainees in the SMU will be provided barbering services. Exceptions to this procedure may be permitted only when authorized by the OIC.
 13. Recreation shall be provided to detainees in disciplinary segregation in accordance with the "Recreation" standard. The standard provisions shall be carried out, absent compelling security or safety reasons documented by the OIC. A detainee's recreation privileges may be withheld temporarily after a severely disruptive incident.

Staff shall document by memorandum and logbook(s) notation every instance when a detainee is denied recreation. The memorandum shall be placed in the detainee's detention file.

14. As a rule, detainees in disciplinary segregation will have significantly fewer items of personal property than other detainees. With the exception of items of personal hygiene, detainees in disciplinary segregation may lose the privilege of making commissary or vending machine purchases.
15. Access to legal and non-legal reading material shall be as follows:
 - a. Detainees may retain personal legal material upon admittance to disciplinary segregation, provided such material does not create a safety, security and/or sanitation hazard.
 - b. Detainees with a large amount of legal material may be required to place a portion of the material in their personal property, with access permitted during scheduled hours.
 - c. 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.
 - d. The Recreation Specialist (RS) shall offer each detainee soft-bound, non-legal books on a rotating basis, provided no detainee has more than two books (excluding religious material) at any one time.

- e. When developing the schedule for law library-access, the OIC will set aside blocks of time for the detainees in disciplinary segregation. These detainees will be afforded legal access comparable to, but not the same as, that of the general population. Security constraints may impose limits on law-library access.
- The facility may choose to provide segregated detainees upon-request access only.
 - Violent and/or uncooperative detainees may be temporarily denied access to the law library, until such time as their behavior and attitude warrants resumed access.
 - On a case-by-case basis, legal material may be brought to individuals in disciplinary segregation. Denial of access to the law library must be justified by compelling security concerns, be fully documented in the SMU logbook, and last no longer than necessary for security purposes.
16. A medical professional shall visit every detainee in administrative segregation at least three times a week. In addition to the direct supervision afforded by the unit officer, the shift supervisor shall see each segregated detainee daily, including weekends and holidays.
- In SPCs/CDFs, the OIC may designate other staff officers to visit each detainee daily. nurse, doctor or other appropriate health care professional shall visit every detainee placed in disciplinary segregation at least once every workday. The medical visit shall be recorded on the SMU Housing Record (Form I-888). The medical professional will question each detainee to identify medical problems or requests. Any action taken will be documented in a separate logbook.*
17. The facility shall follow the “Visitation” standard in setting visitation rules for detainees in disciplinary segregation.
- As a rule, a detainee retains visiting privileges while in disciplinary segregation. The determining factor is the reason for which the detainee is being disciplined.
- Detainees in disciplinary segregation may not be denied legal visitation. However, the OIC will implement security precautions when necessary. In such cases, legal service providers and assistants will be notified of any security concerns prior to visitation.
18. Detainees in disciplinary segregation shall have the same correspondence privileges as detainees in the general population.

19. In accordance with the "Telephone Access" standard, detainees in disciplinary segregation shall be restricted to telephone calls for the following purposes:
 - a. calls relating to the detainee's immigration case or other legal matters, including consultation calls;
 - b. calls to consular/embassy officials; and
 - c. family emergencies, as determined by the OIC.

20. Segregated detainees shall be allowed visits by members of the clergy, upon request, unless the supervisor determines the visit presents a security risk or will interfere with the orderly operation of the facility.
 - a. The clergy member shall be told the detainees present state of behavior.
 - b. The clergy member must agree to meet the segregated detainee.
 - c. Violent and uncooperative detainees may be temporarily denied access to religious services until such time as their behavior and attitude warrants.

E. Forms and Reviews

1. A permanent log will be maintained in the SMU. The log will not all activities concerning the SMU detainees, e.g., meals served, recreation, visitors, etc.

In SPCs/CDFs, the SMU log will record the detainee's name, A-number, housing location, admitted, reasons for admission, tentative release date (for detainees in disciplinary segregation), and the authorizing official. All releases from the unit will be similarly recorded. All persons visiting the unit will sign a separate log, giving time and date of visit. Unusual activity or behavior of individual detainees will be recorded in the log, with a follow-up memorandum sent through the OIC to the detainee's file.

2. *In SPCs the attached I-888 shall be prepared immediately upon the detainee's placement in the SMU. The form will be filled out at the end of each shift. CDFs and IGSA facilities shall use the I-888 or equivalent for the same purpose.*

The special housing officer for each shift will record whether the detainee ate, showered, exercised and took any medication. The I-888 will also be used to record additional information, e.g., if the detainee has a medical condition, has exhibited suicidal/assaultive behavior, etc.

The facility medical officer will be required to sign each individual's record when he/she visits the detainee in disciplinary segregation. The housing officer will initial the record either after the medical visits are completed or at the end of the shift.


A new record must be created for each week the detainee is in disciplinary segregation. The completed weekly Special Housing Unit Records will be retained at the SMU until the detainee is released from SMU.

The detainee's release from the SMU, the releasing officer will insure that the entire housing unit record relating to the detainee is attached to the Disciplinary Segregation Order and forwarded to the CDEO for inclusion in the detainee's detention file.

3. *The attached I-887 shall be used for formal status reviews (see section III.C., above).*

IV. AMERICAN CORRECTIONAL ASSOCIATION STANDARDS REFERENCED
American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-3D-01, 3D-04, 3D-07, 3D-09, 3D-11, 3D-12, 3D-13, 3D-14, 3D-15, 3D-16, 3D-17, 3D-18, 3D-19, 3D-20, 3D-21, 3D-23.

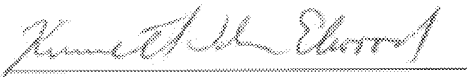
Approval of Standard



Michael D. Cronin
Acting Executive Associate Commissioner
Office of Programs

SEP 20 2000

Date



Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

SEP 20 2000

Date

U.S. Department of Justice
Immigration and Naturalization Service

Disciplinary Segregation Order

To: **SPECIAL MANAGEMENT UNIT**

Date/Time of _____

From: _____
(Officer In Charge or designee)

Subject: Placement of _____ A-Number _____
(Detainee Name)

**An Institutional Disciplinary Panel Hearing Was Conducted on _____, The Above
Date
Named Detainee Was Found to Have Committed the Specified Prohibited Act(s) listed below.**

PROHIBITED ACT(S) _____	CODE: _____
_____	CODE: _____
_____	CODE: _____
_____	CODE: _____
_____	CODE: _____

DAYS IMPOSED: _____

BELOW IS A BRIEF OUTLINE OF SPECIAL INSTRUCTIONS AND/OR INFORMATION:

Admitted: Date: _____

Time: _____

Released: Date: _____

Time: _____

Released by: _____
(Officer & Title)

U.S. Department of Justice
Immigration and Naturalization Service

Disciplinary Segregation Review

On _____ Supervisory Detention Enforcement Officer (SDEO) or contract equivalent _____
(Officer)
conducted a formal review of the Disciplinary Segregation status of _____ A# _____.

Date Disciplinary Segregation began: _____

Date Disciplinary Segregation ends: _____

Detainee has been in Disciplinary Segregation for _____ days.

The following factors were reviewed with the results as indicated:

	YES	NO
1. Does the reason for initial placement remain valid?	[]	[]
2. Does the detainee pose a threat to himself?	[]	[]
3. Does the detainee pose a threat to others?	[]	[]
4. Does the detainee pose a threat to property?	[]	[]
5. Does the detainee pose a threat to security?	[]	[]
6. Is the detainee defiant towards authority?	[]	[]
7. Is the detainee unwilling or unable to live in the general population?	[]	[]
8. Is the detainee's habitual conduct, language, or behavior of a type which may provoke or instigate stressful/violent situations amongst the general population?	[]	[]

If any of the above factors are marked "YES", the detainee must continue his/her existing status, unless the OIC determines otherwise. If all factors are marked "NO", the detainee may be released.

DOCUMENT REVIEW

1. Is the detainee bathing at least twice weekly?	[]	[]
2. Is the detainee exercising at least one hour daily, 5 days a week?	[]	[]
3. Is the detainee consuming at least one meal daily?	[]	[]
4. Is the detainee receiving daily visits from medical staff?	[]	[]
5. Are the special housing officers signing and properly filling out the special housing unit record?	[]	[]

A "NO" answer to any of the above questions will require notification of the Detention Operations Supervisor or officer of equal or greater rank.

For the reasons above, I recommend [] do not recommend [] removal from DS status.

SDEO signature: _____ Date/Time: _____

- [] Concur with Recommendation
- [] Release
- [] Continue Status

Officer in Charge Date

U.S. Department of Justice
Immigration and Naturalization Service

Special Management Unit Housing Record

Name of Detainee: _____ A#: _____ Room#: _____

Violation or Reason: _____ Received Date: _____ Time: _____

Admittance Authorized by: _____ Release Date: _____ Time: _____

Pertinent Information: _____

Date	Shift	B	L	D	Sh	Rec	Medical *	Housing Officer	Comments
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								
	1st								
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	3rd								
	1st								
	2nd								
	3rd								
	1st								
	2nd								
	3rd								

Pertinent Information - Epileptic, Diabetic, Suicidal, Assaultive, etc.

B (Breakfast) **L** (Lunch) **(D)** Dinner **(Sh)** Showers -- **Indicate Yes or No**
Rec (Recreation) -- log in actual time, i.e., 0900/1000

* Medical representative will initial in the medical block on the special housing unit record daily.

**U.S. Immigration and Naturalization Service
NATIONAL DETENTION STANDARDS
MONITORING INSTRUMENT**

Policy: Each facility will establish a Special Management Unit in which to isolate certain detainees from the general population. The Special Management Unit will have two sections, one for detainees in Administrative Segregation; the other for detainees being segregated for disciplinary reasons.

SPECIAL MANAGEMENT UNIT (Disciplinary Segregation)			
Components	Yes	No	Remarks
1. Do officers placing detainees in disciplinary segregation follow written procedures? a. By disciplinary panel?			
2. Does the sanction for violations committed during one incident ever exceed 60 days? a. After 30 days, is the ADD notified, in writing, of the reasons?			
3. Does a completed Disciplinary Segregation Order accompany the detainee into the SMU? a. Does the detainee receive a copy of the order within 24 hours of placement in disciplinary segregation?			
3. Do standard procedures include reviewing the cases of individual detainees housed in disciplinary detention at set intervals? a. Who conducts the review? b. What is reviewed? c. How is the review documented? d. Does the reviewer interview the detainee? e. Can the reviewing officer recommend an early release from the SMU? f. If yes, under what circumstances? g. After each formal review, does the detainee receive a written copy of the decision and reason(s) for it?			
4. Are the conditions of confinement in the SMU proportional to the amount of control necessary to protect detainees and staff?			

SPECIAL MANAGEMENT UNIT (Disciplinary Segregation)			
Components	Yes	No	Remarks
5. Do detainees in disciplinary segregation have fewer privileges than those housed in administrative segregation?			
6. Are living conditions in disciplinary SMUs modified to reinforce acceptable behavior? a. If yes, does staff prepare written documentation for this action? b. Does the OIC sign to indicate approval?			
7. Does every detainee in disciplinary segregation receive the same humane treatment, regardless of offense?			
8. Are the quarters used for segregation: a. Well-ventilated? b. Adequately lighted? c. Appropriately heated? d. Maintained in a sanitary condition?			
9. Are all cells equipped with beds? a. If yes, are beds securely fastened to the floor or wall of the cell?			
10. Does the number of detainees confined to each cell or room exceed the number for which the space was designate? a. Does the OIC approve excess occupancy on a temporary basis?			
11. Is a dry cell part of the disciplinary SMU?			
12. Under what circumstances are detainees segregated without clothing, mattress, blanket, or pillow? a. Do detainees in the SMU wear special clothing?			
13. Do detainees in the SMU have the same opportunities to exchange clothing, bedding, etc., as other detainees?			
14. Do detainees in the SMU receive three nutritious meals/days? a. Selected from the Food Service's menu of the day? b. Do detainees eat with disposable utensils only? c. Is food used as punishment?			

SPECIAL MANAGEMENT UNIT (Disciplinary Segregation)			
Components	Yes	No	Remarks
15. Are detainees allowed to maintain a normal level of personal hygiene, including the opportunity to shower and shave at least three times/week?			
16. Do the detainees receive: a. Barbering services? b. Recreation privileges? c. Other-than-legal reading material? d. Religious material? e. The same correspondence privileges as other detainees? f. Personal legal material?			
17. Is phone access limited by number or type of calls? Do limits apply to the following: a. Calls about the detainee's immigration case or other legal matters? b. Calls to consular/embassy officials? c. Calls during family emergencies (as determined by the OIC)?			
18. Does a health care professional visit every detainee in disciplinary segregation every day, Monday through Friday? a. Does the shift supervisor visit each segregated detainee daily? b. Weekends and holidays?			
19. Are SMU detainees allowed visitors, in accordance with the "Visitation" standard? a. Are they allowed to use of the visiting room during normal visiting hours? b. Do detainees participate in general visitation while in restraints?			
20. Do SMU detainees receive legal visits, as provided in the "Visitation" standard? a. In certain circumstances only? b. Are legal service providers notified of security concerns arising before a visit?			

SPECIAL MANAGEMENT UNIT (Disciplinary Segregation)			
Components	Yes	No	Remarks
21. Are visits from clergy allowed? a. If yes, does staff disclose the reason for the detainee's disciplinary segregation? b. Is the clergy member given the option of visiting/not visiting the segregated detainee? c. Are violent/uncooperative detainees denied access to religious services until their behavior improves?			
22. Do SMU detainees have the same law library access as others? a. If yes, only upon request? b. Do violent/uncooperative detainees retain access to the law library? c. Is legal material brought to individuals in the SMU on a case-by-case basis? d. Does staff document every incident of denied access to the law library? e. Where?			
23. Are all detainee-related occurrences documented, e.g., meals served, recreation activities, visitors, etc.?			
24. Is the SPC's Special Management Housing Unit Record (I-888) prepared as soon as the detainee is placed in the SMU? a. Are all I-888s filled out by the end of each shift? b. Does the CDF/IGSA facility use the I-888 (or equivalent local form)?			

SPECIAL MANAGEMENT UNIT (Disciplinary Segregation)			
Components	Yes	No	Remarks
25. Does SMU staff record whether the detainee ate, showered, exercised, took medication, etc.? a. Are details about the detainee logged, e.g., a medical condition, suicidal/violent behavior, etc.? b. Does the health care official sign individual records after each visit? c. Does the housing officer initial the record when all detainee services are completed or at the end of the shift? d. Is a new record created weekly for each detainee in the SMU? e. Does the SMU retain these records until the detainee leaves the SMU?			

**U.S. Immigration and Naturalization Service
NATIONAL DETENTION STANDARDS
MONITORING INSTRUMENT**

**SPECIAL MANAGEMENT UNIT
(Disciplinary Segregation)**

Verification Sources:

The following may serve as sources of information for auditors verifying the facility's compliance with this detention standard:

SOURCE	TIME	DATE	LOCATION
A. Detainee Detention Files			
B. SMU Logs			
C. Facility Policy and Procedures			
D. Detainee and staff interviews			
E. Observations of SMU			

Facilities must complete the attached Plan of Action for bringing operations into compliance. For each element found out of compliance, the plan of action will specify remedial action and the estimated timetable for compliance.

Remarks: *(Record significant facts, observations, other sources used, etc.)*

Auditor's Signature

Date

INS DETENTION STANDARD

DEFINITIONS

This document defines certain terms used in one or more INS detention standards.

A-FILE, ALIEN FILE—The legal file maintained by INS for each detainee. Contents include, but are not limited to passport, driver's license, other identification cards, and photographs; immigration history (prior record); and all documents and transactions relating to the detainee's immigration case

ACCREDITED REPRESENTATIVE—A person representing an organization whom the Board of Immigration Appeals has found qualified to practice before INS and/or the Board, in accordance with the regulations (see 8 CFR §§ 292.1 and 292.2).

ADMINISTRATIVE SEGREGATION—A form of separation from the general population used when the continued presence of the detainee in the general population would pose a threat to life, property, self, other detainees, or staff or to the security or orderly running of the facility. This housing status also includes detainees who require protective custody, those who cannot be placed in the local population because they are en route to another facility (holdovers), those who are awaiting a hearing before a disciplinary panel, and those requiring separation for medical reasons.

ADMISSION/ADMISSIONS PROCESS—In-processing of newly arrived detainees, which includes an orientation to the policies, programs, rules, and procedures of the facility. Classification, assignment to living quarters, various inspections, medical screening, and safeguarding of funds, valuables and other personal property is completed during this process.

AMBULATORY RESTRAINTS—"Soft" or "hard" equipment used to restrict a detainee's movement but leaving him/her able to eat, drink, or attend to basic bodily functions without staff intervention.

AMMUNITION CONTROL OFFICER (ACO) – An individual who has been designated, in writing, responsibility for the physical and administrative control of ammunition in the authorizing official's area of accountability.

ATTORNEY—A member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia; who is not under an order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting him/her in the practice of law (see 8 CFR § 1.1.(f)).

BODY-CAVITY SEARCH—The visual inspection or physical probing of body openings (anus, vagina, ears, nose, mouth, etc) where weapons, drugs, or other contraband could be secreted. This is the most intrusive means of searching an individual, reserved for instances where other search techniques have been considered but rejected as ineffective under the particular circumstances of the case. Body-cavity search procedures govern physical probes, but not look-only inspections.

For example, the procedures would not be appropriate for a *visual* inspection of the inside of the mouth, nose, or ears, unless contraband is found during the course of that inspection. Body-search procedures apply whenever contraband is found, because retrieving/seizing the item(s) will involve physical entry into or probing within the cavity (in this example, the mouth, nose, or ear).

CAUSTIC—Capable of burning, corroding, eroding, or destroying by chemical action.

CENSUS CHECK—See **INFORMAL COUNT**.

CHAIN OF COMMAND—Order of authority (rank): executive, senior management, senior staff, etc. The on-site order of authority at a detention facility descends from the Officer-In-Charge (OIC) to the Associate OIC to the Chief Detention Enforcement Officer/Chief of Security, Detention Operations Supervisor, etc.

CHEMICAL—A substance with a distinct molecular composition produced by or used in a chemical process.

CLASS R (RESTRICTED) TOOLS—Devices to which detainees are forbidden access except in the presence and constant supervision of staff for reasons of safety or security. Class R includes devices that can be used to manufacture or serve as weapons capable of doing serious bodily harm or structural damage to the facility. All portable power tools and accessories are in this category. Class R also includes ladders and other such items that are not inherently dangerous but could prove useful in unauthorized activities, e.g., escape attempts.

CLASSIFICATION—A process for assessing detainees on the basis of objective information about past behavior, criminal records, special needs, etc.; used to make housing and program assignments.

CLINICAL DIRECTOR (CD)—Responsible for the delivery of health care services to INS detainees.

COMBUSTIBLE LIQUID—A substance with a flash point at or above 100° Fahrenheit.

COMMISSARY—An area or system where detainees may purchase approved items.

CONSULTATION VISITATION—A discussion, either in person or by telephone, between a detainee subject to expedited removal and a person of the detainee's choosing.

CONTACT VISIT—A meeting between detainee and another person authorized to take place in an area free of obstacles or barriers that prevent physical contact.

CONTAINER—Any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or other vessel holding a hazardous chemical; does not include pipes or piping systems.

CONTRABAND—Any unauthorized item in the facility: illegal, prohibited by facility rules, or otherwise posing a threat to the security or orderly operation of the facility. This includes unauthorized funds.

CONTRACT DETENTION FACILITY (CDF)—Provides detention services under a competitively bid contract awarded by the INS.

CONTROL OFFICER—Directs security activities from the Control Center.

COUNT SLIP—Documentation of the number of detainees confirmed present during a population count in a specific area, signed by the officers involved in the count.

CORRESPONDENCE—Letters, postcards and other forms of written material not classified as packages or publications. Large envelopes containing papers qualify as correspondence, but boxes, sacks, and other shipping cartons do not. Books, magazines, newspapers and other incoming printed matter are not “correspondence.”

CRIMINAL ALIEN—A foreign national convicted of one or more crimes.

DETAINEE HANDBOOK—The policies and procedures governing detainee life in the facility: daily operations, rules of conduct, sanctions for rule violations, recreation and other programs, services, etc.; defined in writing and provided to each detainee upon admission to the facility.

DETENTION FILE – Contents include receipts for funds, valuables, and other personal property; documentation of disciplinary action; reports on detainee behavior; detainee's written requests, complaints, and other communications; official responses to detainee communications; records from Special Management Unit, etc.

DIETICIAN—Individual registered or eligible for registration with the American Dietetic Association or who has the documented equivalent in education, training, or experience, with evidence of relevant continuing education.

DISCIPLINARY HEARING—Non-judicial administrative procedure to determine whether substantial evidence supports finding a detainee guilty of a rule violation.

DISCIPLINARY COMMITTEE—One or more impartial staff members who conduct and/or oversee a disciplinary hearing; see also “INSTITUTIONAL DISCIPLINARY PANEL.”

DISCIPLINARY SEGREGATION—Confinement in a cell removed from the general population after a serious violation of facility rules (in accordance with written procedures).

DIVISION OF IMMIGRATION HEALTH SERVICES (DIHS)—The U.S. Public Health Service division charged with advancing global disease prevention through the delivery of primary health care to INS detainees. Through a memorandum of understanding with the INS, DIHS physicians, dentists, physician assistants, nurse practitioners, nurses, pharmacists, and health care administrators staff INS medical facilities. The health-care services they provide include disease-screening and -prevention. In addition, DIHS is responsible for all aspects of planning, policy formulation, and program direction and management, including coordination and liaison activities, for all health matters concerning INS detainees.

EMERGENCY CHANGES - Measures immediately necessary to maintain security or to protect the health and safety of staff and detainees.

EXPOSURE/EXPOSED—Subjected or potentially subjected to a hazardous substance by any means (inhalation, ingestion, skin contact, absorption, etc.).

FACE-TO-PHOTO COUNT—Verifies identity of each detainee by comparing every person present with the photographic likeness on his/her housing card.

FIREARMS CONTROL OFFICER (FCO)—Individual designated responsible for the physical and administrative control of all firearms under the jurisdiction of the authorizing official.

FLAMMABILITY HAZARD—Has a flash point below 200° Fahrenheit, closed cup, or is subject to spontaneous heating.

FLAMMABLE LIQUID—A substance with a flash point below 100° Fahrenheit (37.8° Centigrade).

FLASH POINT—The minimum temperature at which the vapor of a combustible liquid can form an ignitable mixture with air.

FOOD SERVICE ADMINISTRATOR (FSA)—Responsible for planning, controlling, directing, and evaluating Food Service Department operations.

FORMAL COUNT—Detainee population assembled at specific times for attendance check, conducted in accordance with written procedures.

FOUR-POINT RESTRAINT—Confines the individual to a bed or bunk in either a supine or prone position. Ordered by OIC when detainee's unacceptable behavior appears likely to continue, risking injury to self or others.

FULL-TIME WORK ASSIGNMENT—Employed from beginning to end of a shift.

FUNDS—Cash, checks, money orders, and other negotiable instruments.

GENERAL CORRESPONDENCE—All correspondence other than "special correspondence."

GRIEVANCE—A complaint based on a circumstance or incident perceived as unjust.

GROUP PRESENTATION ON LEGAL RIGHTS—Informational session held in a detention facility by an attorney or other legal representative to inform all interested detainees about U.S. immigration law and procedures; not a forum for providing confidential or case-specific legal advice.

HARD CONTRABAND—Poses a serious threat to the security of the facility.

HEALTH HAZARD—Includes carcinogens, toxic agents, reproductive toxins, irritants, corrosives, sanitizers, hepatotoxins, nephrotoxins, neurotoxins, and other agents that act on the hemopoietic system or damage the lungs, skin, eyes, or mucous membranes.

HEALTH SCREENING—A system for preliminary assessment of the physical and mental condition of individual detainees upon arrival at the facility; conducted by health care personnel or by a health-trained detention officer. The combination of structured inquiry and observation is designed to prevent new arrivals who appear to pose a health or safety threat to themselves or others from moving into the general population.

HEALTH SERVICES ADMINISTRATOR (HSA)—Executive responsible for the facility's health care program; may also serve as Clinical Director.

HOLD ROOM—A secure area used for temporary confinement of detainees before in-processing, institutional appointments (court, medical), release, transfer to another facility, or deportation-related transportation.

HOLY DAY—A day specified for religious observance.

HUNGER STRIKE—A voluntary fast undertaken as a means of protest; medical evaluation of a hunger-striking detainee is standard after 72 hours or earlier, at the discretion of medical staff.

ILLEGAL CONTRABAND—Any item prohibited by law, the possession of which constitutes grounds for felony or misdemeanor charges.

INDIGENT—Without funds, or with nominal funds.

INDOOR RECREATION AREA—A covered and enclosed exercise space 1,000 square feet or larger, encompassing 15 square feet per detainee for the planned capacity (number using the space at one time).

INFORMAL COUNT—Population count conducted according to no fixed schedule, when detainees are working, engaged in other programs, or involved in recreational activities. Unless a detainee is missing, these counts are not reported; also called "census check" or "irregular count."

INFORMAL RESOLUTION—Brings closure to a complaint or issue of concern to a detainee, satisfactory to the detainee and staff member involved; does not require filing of a written grievance.

INSTITUTIONAL DISCIPLINARY PANEL (IDP)—Review board responsible for conducting disciplinary hearings and imposing sanctions for cases of detainee misconduct referred for disposition following the hearing. The IDP usually comprises a Hearing Officer and representatives of different departments in the facility

INTERGOVERNMENTAL SERVICE AGREEMENT (IGSA)—A cooperative agreement between INS and any State, territory or political subdivision, for the construction, renovation, or acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services. INS may enter into an IGSA with any such unit of government

guaranteeing to provide bed space for INS detainees, and to provide the clothing, medical care, food and drink, security, and other necessities specified in the INS Detention Standards; facilities providing such services are referred to as "IGSA facilities."

INVESTIGATING OFFICER—The disinterested individual of supervisory or higher rank who conducts an investigation of alleged misconduct; usually a Supervisory Detention Enforcement Officer or shift supervisor.

IRREGULAR COUNT—See **INFORMAL COUNT**.

LEGAL ASSISTANT—An individual (other than an interpreter) who, working under the direction and supervision of an attorney or other legal representative, assists with group presentations and in representing individual detainees. Legal assistants may interview detainees, assist detainees in completing forms, and deliver papers to detainees without the attorney being present.

LEGAL FILE—See **A-FILE**.

LEGAL REPRESENTATIVE — An attorney or other person representing another in a matter of law, including law students, law graduates not yet admitted to the bar; "reputable individuals"; accredited representatives; accredited officials; and attorneys outside the United States (see 8 CFR § 292.1, "Representation and Appearances").

LIFE-SUSTAINING PROCEDURE (LIFE SUPPORT) — A medical intervention or procedure that uses artificial means to sustain a vital function.

MAIL INSPECTION—Examination of incoming and outgoing letters, packages, etc., for contraband, cash, checks and money orders.

MASTER COUNT—Total number of detainees housed at a facility.

MATERIAL SAFETY DATA SHEET (MSDS)—Basic information about a hazardous chemical, prepared and issued by the manufacturer, in accordance with Occupational Safety and Health Administration regulations (see 29 CFR 1910.1200; see also OSHA Form 174); among other things, specifies precautions for normal use, handling, storage, disposal, and spill cleanup.

MESSENGER—A person (neither a legal representative nor a legal assistant) whose purpose is to deliver or convey documents, forms, etc., to and from the detainee; not afforded the visitation privileges of legal representatives and legal assistants.

MINOR—A juvenile; a person under the age of 18.

NATIONAL COMMISSION ON CORRECTIONAL HEALTH CARE—Establishes the standards for health service in correctional facilities on which accreditation is based.

NATIONAL FIRE PROTECTION ASSOCIATION—Principal source of fire protection standards and codes.

NON-CONTACT VISIT—A barrier preventing physical contact between detainee and visitor(s).

NON-MEDICAL EMERGENCY ESCORTED TRIP—Authorized detainee visit to a critically ill member of his/her immediate family, or to attend the funeral of a member of his/her immediate family. "Immediate family" member refers to a parent (including stepparent and foster parent), child, spouse, sister, or brother of the detainee.

NON-MERIT FACTOR—Any characteristic or status immaterial to a detainee's mental or physical ability to perform a given assignment.

NON-SECURITY KEY(S)—If duplicated by unauthorized persons and/or lost, would not constitute an emergency, requiring urgent action; not critical to facility safety and security.

OFFICER-IN-CHARGE (OIC)—The highest-ranking official in the on-site chain of command at a facility; the facility director. In contract and IGSA facilities, often referred to by another title, e.g., Administrator, Warden, etc.

OUT COUNTS—Detainees temporarily away from the facility, but included in the master count

OUTDOOR RECREATION AREA—Open-air space for exercise or other leisure activities, large enough to allow 15 square feet per detainee for the largest group expected to use the area at any one time; but not less than 1,500 square feet.

PAT-DOWN SEARCH—Relies on the sensitivity of the officer's hands as they tap or run over the detainee's clothed body; may require the detainee to reveal pocket contents. The least intrusive body search.

PHYSICAL EXAMINATION—A thorough evaluation of an individual's physical condition and medical history conducted by or under the supervision of a licensed professional.

PLAN OF ACTION—Describes steps the facility will take to convert a condition that has caused a determination of noncompliance with a standard.

POSSESSION—Control over an item on one's person, or in one's assigned or personal space.

POST ORDERS—Written orders that specify the duties of each position, hour-by-hour, and the procedures the post officer will follow in carrying out those duties.

PROGRESSIVE RESTRAINTS—Control the detainee in the least restrictive manner required, until and unless the detainee's behavior warrants stronger and more secure means of inhibiting movement.

PROTECTIVE CUSTODY (PC)—Administrative segregation for the detainee's own safety.

REASONABLE SUSPICION—Not intuition, but articulable facts that lead the officer(s) to suspect a particular person is concealing a weapon, contraband, or evidence of a crime.

RELIGIOUS PRACTICES—Worship, observances, services, meetings, ceremonies, etc., associated with a particular faith; access to religious publications, religious symbolic items, religious counseling and religious study classes; and adherence to dietary rules and restrictions.

REPRESENTATIVE OF THE NEWS MEDIA—Person whose principal employment is gathering or reporting news for a:

- General circulation newspaper (covering politics, society, business, sports, arts, religion, etc.) which publishes legal notices for the local distribution area; A newsmagazine with a national circulation, sold at newsstands and by subscription;
- Newsmagazine with a national circulation, sold at newsstands and by subscription;
- National or international news service; or
- News program produced for a radio or television station licensed by the Federal Communications Commission (or foreign equivalent).

SALLY PORT—An enclosure situated in the perimeter wall or fence surrounding the facility, containing double gates or doors, of which one cannot open until the other has closed, to prevent a breach in the perimeter security; handles pedestrian and/or vehicular traffic.

SANITATION—The creation and maintenance of hygienic conditions; in the context of food, involves handling, preparing, and storing items in a clean environment, eliminating sources of contamination.

SATELLITE FEEDING—Food served and consumed in a location other than where prepared.

SECURITY KEY(S)— If duplicated by unauthorized persons and/or lost, would jeopardize life, safety, property, or security; or would facilitate escape.

SEGREGATION—Confinement in an individual cell isolated from the general population; for administrative, disciplinary, or protective reasons.

SERVICE PROCESSING CENTER (SPC) - A detention facility of which the primary operator and controlling party is the INS.

SOFT CONTRABAND—Any unauthorized item that does not constitute hard contraband, i.e., does not pose a threat to human safety or facility security; includes that quantity of an item possessed in an amount exceeding the established limit.

SPECIAL CORRESPONDENCE/MAIL—Detainee correspondence to or from private attorneys or other legal representatives, government attorneys, judges, courts, embassies and consulates, the U.S. President or Vice President, members of the U.S. Congress, the U.S. Department of Justice (including the INS and the Office of the Inspector General), the U.S. Public Health Service, administrators of grievance systems, and representatives of the news media. Correspondence will only be treated as special if the sender (for incoming correspondence) or recipient (for outgoing correspondence) and his/her title and office are adequately identified on the envelope to provide a clear indication that the correspondence belongs in this category.

SPECIAL MANAGEMENT UNIT (SMU)—A housing unit for detainees in administrative or disciplinary segregation.

SPECIAL-NEED DETAINEE—A detainee whose mental and/or physical condition requires special handling and treatment by staff. Special needs detainees include, but are not limited to, those who are emotionally disturbed, mentally retarded or mentally ill, physically disabled, infirm, and drug or alcohol addicts/abusers.

STRIP SEARCH—The removal or rearrangement of some or all of an individual's clothing to enable officers to examine the clothing and surfaces of the detainee's body, including breasts, navel, exterior anal and genital areas, and the inside of the nose, ears, and mouth. To the extent possible, the officers conduct the search visually, without touching the body parts.

TERMINALLY ILL/INJURED—In critical condition, beyond medical intervention, with death imminent or expected during the course of detention or hospitalization, according to the attending physician.

TOXIC—Poisonous; capable of causing injury or death.

TRAINING—An organized, planned, and evaluated activity designed to achieve specific learning objectives and enhance personnel performance. Training may occur on site, at an academy or training center, an institution of higher learning, professional meetings, or through contract service or closely supervised on-the-job training. Training programs usually include requirements for completion, attendance records, and certification of completion. Meetings of professional associations are considered training where there is clear evidence of the direct bearing on job performance. In all cases, the activity must be part of an overall training program.

UNENCUMBERED SPACE—Open, usable space measuring at least seven feet in at least one dimension, free of plumbing fixtures, desk, locker, bed, and other furniture and fixtures (measured in operational position).

UNAUTHORIZED FUNDS—Negotiable instruments (checks, money orders, etc.) or cash in a detainee's possession exceeding the facility-established limit.

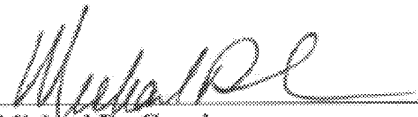
UNAUTHORIZED PROPERTY—Not inherently illegal, but against the facility's written rules.

UNIT DISCIPLINARY COMMITTEE—See **DISCIPLINARY COMMITTEE**.

VOLUNTEER GROUP—Individuals who collectively donate time and effort to enhance the activities and programs offered to detainees; selected on basis of personal qualities and skills (recreation, counseling, education, religion, etc.).

WORK ASSIGNMENT—Carpentry, plumbing, food service, and other operational activities included in the facility's Voluntary Work Program, for which a detainee may volunteer.


Approval of Standard



Michael D. Cronin
Acting Executive Associate Commissioner
Office of Programs

SEP 20 2000

Date



Michael A. Pearson
Executive Associate Commissioner
Office of Field Operations

SEP 20 2000

Date

Exhibit O

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

ALEJANDRO MENOCA, et al.,)	
)	
)	
Plaintiffs,)	Case No.
)	
vs.)	1:14-cv-
)	02887-JLK
THE GEO GROUP, INC.,)	
)	
)	
Defendant.)	
)	

VIDEOTAPED DEPOSITION OF KEVIN MARTIN
November 19, 2019
9:31 a.m.
205 North First Street
La Conner, Washington

Reported by:
Connie Recob, CCR, RMR, CRR
CCR No. 2631
Job No. 854755 - NE 288153

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2

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19 Also Present:

20 Danielle Greene - Videographer

21

22

23

24

25

1 A. 189, okay.

2 Q. And do you recognize this section of the
3 PBNDS?

4 A. Yes.

5 Q. And how did this -- how is this section
6 incorporated into the disciplinary system at GEO?

7 A. The disciplinary system at GEO is specific.
8 The disciplinary system -- this is the disciplinary
9 system.

10 Q. So you mentioned before the Detainee
11 Handbook?

12 A. Yes.

13 Q. And does the Detainee Handbook lay out these
14 exact rules from the PBNDS for the detainees as far as
15 discipline goes?

16 A. Yes.

17 MS. ANGEL: Objection. You can answer.

18 THE WITNESS: Yes, it does.

19 BY MS. STORK:

20 Q. Do you know if there's any deviation from --
21 between the DB -- excuse me, between the GEO Detainee
22 Handbook and the PBNDS as far as disciplinary
23 requirements?

24 A. Not as far as disciplinary requirements, not
25 that I can recall.

1 Q. You can flip through if you --

2 A. Yeah. I'm --

3 Q. -- if it would help you recall.

4 A. I'm trying to think, there were -- I mean,
5 there were -- there were other aspects of the handbook
6 or GEO documents that, if Immigration -- we would go
7 by whatever the most stringent was. So if Immigration
8 said, A, but GEO said B, and it was more stringent
9 than A, then we would go with B.

10 And I'm trying to -- I'm sure there's a dozen
11 examples of when that occurred because that would come
12 up during audits. Why are we doing this? And we
13 would just have to show that Immigration requires this
14 as opposed to what GEO required, or ACA, American
15 Correctional Association. So we would go by whatever
16 the most stringent was.

17 Q. Do you recall any time when the ACA
18 requirements, like a specific example of what you were
19 just discussing where the ACA requirements would
20 require something less stringent, but ICE required
21 something more stringent as far as detainee
22 discipline?

23 A. Not as far as detainee discipline, no.

24 Q. Okay. Anything else then?

25 A. Tool control, specifically. That was always

1 a -- a headache because our corporate office had what
2 was called class A tools, B tools, AA, BB, and
3 Immigration was very specific to just restricted and
4 nonrestricted, and the layout of the way they wanted
5 shadowed and colored black or red depending on those
6 tools. And they were --

7 Again, that was one that we -- I have to back
8 up. We did not go with the most stringent at that
9 time. We did what Immigration required because they
10 were the client and that's specifically what they
11 wanted. And that's also what -- well, the PBNDS
12 required, so we went with what Immigration preferred
13 on that.

14 Q. So sometimes Immigration -- I'm going to
15 refer to Immigration and ICE interchangeably.

16 A. Yes.

17 Q. Is that --

18 A. Yes. Understandable.

19 Q. Does that make sense to you?

20 A. Yes.

21 Q. When you're referring to "Immigration,"
22 you're referring to ICE, correct?

23 A. Yes.

24 Q. So sometimes what ICE required was less
25 stringent and sometimes it was more stringent than the

1 And again, the standards back then, when I
2 first started, we did not have the extensive
3 classification process that they have now. It
4 literally was some questions that we would ask the
5 detainee. We did not get what was called a 213 from
6 Immigration, their -- their history, so we would
7 classify them based off their answers to determine
8 where they were going to be housed in the facility.

9 Q. And when was that that you're referring to
10 where you would classify them based on sort of a GEO
11 policy rather than the Immigration standards?

12 MS. ANGEL: Objection.

13 THE WITNESS: Well, it -- it wasn't -- it was
14 an Immigration, but it wasn't as extensive as their
15 standard is now because back then, they -- and I can't
16 even get into how Immigration worked. But the
17 document that they had wasn't as detailed as what
18 Immigration does now as far as every detainee that
19 comes in now has an entire history that they provide:
20 Where they were contacted, if they had any criminal
21 charges, if -- you know, anything and everything that
22 they can provide us.

23 Back then, before -- ironically, but before a
24 lot of the computer processes, we would wait until we
25 would get their file transferred up from -- I believe

1 it was Houston. But we would classify the detainee,
2 and I want to say that was probably 2000 -- 2000,
3 maybe early 2001.

4 BY MS. STORK:

5 Q. And after that, you were an administrative
6 lieutenant?

7 A. Yes.

8 Q. And what were your duties in that role?

9 A. Duties in that role, one to two days a week,
10 I would be the shift supervisor, but the majority of
11 my time, I would be doing employee schedules. I would
12 be working on ACA files. Each department had a large
13 number of files, you know, files related to American
14 Correctional Association. So I would have to go pull
15 documents, print, scan documents for files, whatever
16 other projects that either the warden or assistant
17 warden needed -- needed done.

18 Q. Okay. So it was a mix of being a shift
19 supervisor over other detention officers and
20 administrative, like, back-office work?

21 A. Correct.

22 Q. And then when you were compliance manager
23 after that for about nine years, what were your duties
24 in that role?

25 A. I was in charge of writing all policies. I

1 oversaw all the audits that we had. Again, wrote
2 quite a few articles for newsletter. It sounds pretty
3 boring, but I was extremely busy. There was one year
4 we had seven different audits, so it was -- I mean, we
5 had a tremendous amount of oversight, so it was
6 preparing for those audits. And then we also had
7 internal audits.

8 The Immigration standards have audit tools
9 attached to them and -- I haven't flipped through this
10 whole document to see if it has the audit tools, but
11 we would have internal audits that we would do just to
12 make sure that we were -- we were in compliance.

13 Q. So you oversaw all audits, both internal GEO
14 audits, ICE audits, American Correctional Association
15 audits.

16 Were there other kinds of audits that you
17 were in charge of?

18 MS. ANGEL: Objection. Just audits at
19 Aurora?

20 MS. STORK: Sorry?

21 MS. ANGEL: I said objection. Just audits at
22 Aurora?

23 MS. STORK: At Aurora, excuse me, yes.

24 THE WITNESS: We had the Immigration audits.
25 American Correctional Association was every three

1 A. Yes.

2 MS. STORK: Do you have the date?

3 MS. ANGEL: Yes. I was going to say again,
4 if you want it. It's June 9th, 2014.

5 THE WITNESS: Okay.

6 BY MS. STORK:

7 Q. Does that sound correct to you?

8 A. Yes. Yeah.

9 MS. ANGEL: If you want to take a couple
10 minutes to look at that, it would be a good time to
11 take a break.

12 MS. STORK: It would be a good time for a
13 break.

14 THE VIDEOGRAPHER: The time is now 10:53 a.m.
15 And we're off the record.

16 (Recess 10:53-11:00.)

17 THE VIDEOGRAPHER: The time is now 11:00 a.m.
18 and we are back on the record.

19

20 EXAMINATION (Continuing)

21 BY MS. STORK:

22 Q. Okay. Mr. Martin, before we took a break, we
23 were talking about your experience in your different
24 roles at GEO.

25 So just looking back to Exhibit 1, which is a

1 version of your resume, in -- on the first page, which
2 is Bates stamped GEO-MEN-0019835, it says that you
3 "participated in development, review and revision of
4 security sanitation policies and procedures."

5 Do you see that?

6 A. Yes.

7 Q. So which policies regarding sanitation did
8 you -- well, did you review or develop or revise
9 sanitation policies?

10 Tell me about your role specific to
11 sanitation policies.

12 MS. ANGEL: Objection.

13 THE WITNESS: It would have been varied
14 depending on the positions that I held. So if we go
15 back to when I was the fire safety manager, the fire
16 safety manager was responsible for the sanitation
17 policy. Each department head -- policies were
18 reviewed on an annual basis, so each department head
19 was responsible for reviewing all policies, so every
20 month we would have approximately 12 policies that
21 were reviewed.

22 Department heads reviewed all the policies,
23 would make any recommended changes. There were -- it
24 might be a typo or whatever it may be or just change
25 of internal processes. More specific, if you were the

1 department head that had responsibility over that
2 policy, it was more than just a casual once-over. You
3 had to make sure that that was ultimately what -- what
4 the facility was doing.

5 Now, when I went to compliance, it was a
6 little different because in compliance, ultimately, I
7 would make the changes to the policies that were
8 recommended once either the assistant warden or the
9 warden signed off on them. Now, some of them were
10 automatic, specifically like the 2011 standards. If
11 there was changes in the standard, then I had to
12 change the policy. So again, depending on which
13 position I was in, I had a little more responsibility
14 for the policy.

15 Now, as far as sanitation policy, I can tell
16 you clearly that that policy would have changed around
17 2011 or 2010. We moved into the new facility in, I
18 believe it was 2010, or was it 2011 when we moved from
19 the old facility into the new facility. I know it was
20 on my brother's birthday. But basically, all the
21 policies were revised to a degree just because of the
22 physical layout of the building.

23 BY MS. STORK:

24 Q. Got it. And at that time, 2011, 2010, were
25 you the fire safety manager?

1 MS. ANGEL: Objection.

2 BY MS. STORK:

3 Q. When you were on a UDC?

4 A. Right. For a UDC, you would have a copy of
5 the disciplinary packet that would include the
6 officer's statement of what the detainee allegedly
7 did; if there was any additional officer statements,
8 detainee statements, if there were witnesses. It
9 would be the entire packet of what transpired.

10 You would then bring -- depending on what it
11 was, you would bring the detainee into the office, sit
12 down with the detainee, go over, get their side of the
13 story, and then based on the reports, based on the
14 detainee's statement, determine if there was an
15 infraction committed. We may review video. It just
16 kind of depended on what the infraction was.

17 Q. And I'm sorry if you already explained this,
18 but how many members would there be on a UDC or
19 would --

20 A. UDC was --

21 Q. -- it just be one person?

22 A. -- typically one person.

23 Q. So you were essentially the judge deciding
24 whether the infraction had been committed?

25 MS. ANGEL: Objection.

1 THE WITNESS: I don't know if you want to say
2 judge. I mean, you -- I don't know if that would be
3 the correct word, but I'm -- ultimately you were
4 determining, yeah, whether or not the -- the
5 infraction, based on the -- the -- again, whether
6 there was a video or the detainee's statement, officer
7 statements, you would determine whether or not the --
8 the infraction occurred.

9 BY MS. STORK:

10 Q. And would you also assess sanctions?

11 A. Yes.

12 Q. Okay. And what was your guide for what
13 sanctions to assess?

14 A. The PBNDS.

15 Q. And I know we looked at the PBNDS earlier,
16 Exhibit 2, and pointed out that there are levels of
17 offenses, 100- through 400-level offenses, and then
18 each level has a series of sanctions that are
19 permitted; is that right?

20 A. Yes.

21 Q. So how did you choose between -- you know,
22 how did you choose which sanction would be
23 appropriate --

24 MS. ANGEL: Objection.

25 ////

1 BY MS. STORK:

2 Q. -- for the offense?

3 MS. ANGEL: Objection. Foundation.

4 BY MS. STORK:

5 Q. As a UDC member or as a -- would you call it
6 a -- I'm trying to get the terminology right, if it's
7 a committee of one essentially, but it's --

8 A. Well, it was ironic that it's a committee,
9 but you're the committee to one.

10 Q. Right.

11 A. In the -- and I'd have to go through the ICE
12 Center, but in this standard, it says if -- depending
13 on which level -- like here, let's see. Perfect. I
14 just found the page.

15 So like on Page 194, it breaks down the --
16 UDC's responsibility and it would say: "Impose minor
17 sanctions E through M." So if we look through --
18 let's see if I can even find it. It's been a while.
19 Now it's confusing because it says E through M, but
20 I'm not seeing a...

21 Q. E through M?

22 A. -- breakdown of E through M. It says:
23 "Impose sanctions E through M."

24 Q. Yeah.

25 A. But I'm -- I'm seeing the sanctions, but

1 they're numbered.

2 Q. I'm seeing the same thing.

3 A. Because there was a -- like, obviously if it
4 was -- well, I can't say obviously because you guys
5 didn't work there. But say somebody was tattooing,
6 you're not going to initiate criminal proceedings. So
7 it was broken down depending on what the infraction
8 was, you know, the 100 to 400.

9 So you would look at it and determine whether
10 or not it was a warning or restricted to their
11 housing. Again, it -- it just kind of -- it kind of
12 varied depending on the sanction.

13 Q. So it looks like -- correct me if I'm wrong,
14 but it looks, from the Page 194 that you're referring
15 to in Exhibit 2, that the UDC has the authority to
16 impose minor sanctions E through M, and -- and that if
17 you look on the right-hand column: "The UDC shall
18 refer to the IDP an incident involving a serious
19 violation associated with an A through D range
20 sanction."

21 Is that what you recall?

22 A. Correct. So if it was a 100 or a -- it was
23 kind of redundant. If it was a 100- or 200-level
24 charge, they would still go to the UDC and the UDC
25 would just refer them to the IDP. We may provide

1 additional information. We may end up doing more
2 witnesses or whatever it may be.

3 If it was a 3- or 400 level, the majority of
4 the time, the UDC or that staff member would impose
5 sanctions. If there was something that they weren't
6 comfortable with or there was something -- you still
7 could refer it to the IDP even if it was a 3- or 400-
8 level charge, but 100 and 200 always went to the IDP.

9 Q. Got it.

10 A. Or at least -- I can just say that all the
11 ones that I did ever went to the IDP, if they were a
12 3- -- or, excuse me, a 1- or a 200 level.

13 Q. Let's look then down at the 300-level
14 offenses on page -- starting on Page 200 and then
15 going on to Page 201.

16 If you look at the list of sanctions for
17 300-level offenses, disciplinary segregation up to
18 72 hours is a sanction, a possible sanction, right?

19 A. Correct.

20 Q. And is that sanction something the UDC would
21 have the authority to authorize or is that a sanction
22 that the IDP would have to approve?

23 MS. ANGEL: Objection.

24 THE WITNESS: For a 300 level, the UDC could
25 impose disciplinary -- excuse me, disciplinary

1 segregation.

2 BY MS. STORK:

3 Q. So as a UDC, how would you know -- and if you
4 look again, excuse me, at this list of sanctions, it's
5 quite a range, right? I mean, reprimand is a possible
6 sanction and disciplinary segregation is another
7 sanction.

8 How would the UDC know which one to choose
9 for a 300-level offense?

10 MS. ANGEL: Objection. Foundation. And to
11 the extent that you're asking him how other people did
12 it, I don't think he can comment on how other people
13 did it, but if you want to ask him how he chose, I
14 think that's a fair question.

15 BY MS. STORK:

16 Q. You can answer the question.

17 A. Okay. Yeah, again, how other people would
18 have done it, I -- I couldn't -- I couldn't say. But
19 it would be based off of the severity -- and again, we
20 can go back to the layouts of the facility.

21 So when -- when we were in the old facility,
22 it was very difficult to take away a loss of
23 privileges like commissary because the system wasn't
24 set up to where you could not allow them to -- to
25 purchase commissary. When we moved to the new

1 facility and a new system, they could go in there. If
2 we -- if I did a disciplinary hearing and say, Okay,
3 this guy can't order commissary, I could give it to
4 the detainee account clerks, and it would be put into
5 the computer and they couldn't get commissary. And
6 then also other detainees are buying commissary for
7 them. It was a waste of everybody's time for some of
8 the -- for some of the sanctions.

9 If you look at, like: "Restrict to housing
10 unit," well, most of the time, the detainees are in
11 the housing unit. You're not taking away their access
12 to court. You're not taking away their access to --
13 to law library or recreation, and we only took away
14 visitation privileges if an incident occurred while it
15 was in visitation.

16 So me, personally, there were certain
17 sanctions that were a waste, like "remove from
18 programs or group activity." Well, if they weren't in
19 any kind of a program or in an activity, we didn't do
20 that. They didn't have a job; they didn't lose a job.
21 So it kind of, you know -- so there were sometimes,
22 depending on what it was, you just automatically wiped
23 out half -- half of the possible sanctions.

24 Q. So would it be fair to say that because some
25 of the listed sanctions here in the PBNDS weren't

1 effective based on the layout of the facility or just
2 the reality on the ground, you -- you would choose a
3 different sanction from the list?

4 MS. ANGEL: Objection.

5 THE WITNESS: Correct, yes.

6 BY MS. STORK:

7 Q. And as UDC, you had the authority to do that,
8 to choose any sanction from the list, correct?

9 A. I want to say that -- and this seems odd when
10 I'm looking at it now, but I wanted to say that the
11 charges were broken down differently to where, if it
12 was a -- say a 323 charge, which I don't think -- I've
13 never even heard anybody getting that, but you could
14 only do, say, six through 12.

15 And that's what's confusing, where it almost
16 seems like there's something missing because on --
17 like we go back to Page 194, where it says, "Impose
18 minor sanctions E through M," I don't see E through M.
19 I'm seeing numbers. And I remember -- like, if we had
20 a copy of the handbook where it would say E through M
21 or if I could -- I'd have to find it.

22 But they were -- depending on the charges,
23 you could only do certain sanctions. And, again, even
24 though this is making it sound like if it's a 300, you
25 could do 1 through 12. I don't know. This document

1 seems -- it seems different now for some reason.

2 Q. Okay. So you recall maybe in the Detainee
3 Handbook there was a further breakdown of what
4 punishments corresponded or could correspond to what
5 infractions within the 300 level?

6 A. But it would have been based off of -- it
7 would have been based off of the -- the standards
8 themselves.

9 Q. Based off of the PBNDS?

10 A. Yes, because even when we look at Page 192
11 where it talks about the ID, the -- where it first
12 breaks it down, it says: "Sanctions A through G," "F
13 and G only," "A, B, C, D and E," or "G through M," but
14 I'm not seeing anywhere where it gives letters for the
15 sanctions. All I'm seeing is numbers, and I do recall
16 seeing a letter, so I'm not sure if...

17 Q. Well, we can look into that and see if we
18 can --

19 A. Okay.

20 Q. -- find the letter categories that are
21 referenced here.

22 But putting that aside, based on your
23 recollection, you -- you said you did recall that the
24 UDC could impose segregation, disciplinary segregation
25 up to 72 hours, right; that would not have to go to

1 Q. And prior to 2010, what would the -- would
2 there have been any differences in this schedule
3 because you were in the old facility? What would the
4 differences -- what were the differences?

5 MS. ANGEL: Objection.

6 THE WITNESS: Well, just the layout of the
7 building would have been differently. So laundry
8 exchange -- it was a smaller facility, so laundry
9 exchange would have been a little different. I'd have
10 to go through line by line, but let's see.

11 Like at 4 o'clock, that could have changed
12 because we didn't always have releases on Tuesday and
13 Friday so that could have changed.

14 BY MS. STORK:

15 Q. Well, let me ask you about some specific
16 provisions, or specific items in the schedule.

17 A. Okay.

18 Q. Were the meal service times the same prior to
19 2010 and after 2010?

20 MS. ANGEL: Objection.

21 THE WITNESS: Mealtimes changed. Meals used
22 to be served at approximately 7 o'clock in the morning
23 and then that switched to 5 a.m. Like, that would
24 have been in the early 2000s.

25 BY MS. STORK:

1 Q. So then in the early 2000s through 2014, meal
2 service was around 5 a.m., correct?

3 A. Correct.

4 Q. Okay. And what about the meal service
5 cleanup time? When meal service cleanup begins, I
6 think you can see it starts at 0600 for breakfast,
7 1100 for lunch and 1730 for dinner?

8 A. Uh-huh.

9 Q. Are those times, were those the same --
10 excuse me.

11 Did the meal service cleanup start at roughly
12 those times throughout the 2004 to 2014 time frame?

13 A. Roughly. Again, it depends -- meal service
14 would start at 5, but you might have some units that
15 wouldn't get fed until closer to 6.

16 Q. Okay.

17 A. So obviously as large as the facility is,
18 it -- you know, I can't say it's 6:12, 6:04, you know.
19 So basically, after they finished eating, they would
20 start cleaning up. So if they got served first and
21 they got served at 5, they might be done at 5:15 or
22 5:30. You know, it kind of depends how long it took
23 everybody to eat.

24 Q. And as soon as everyone ate, meal service
25 cleanup with begin, correct?

1 A. Correct.

2 Q. Okay. And how long -- excuse me.

3 How long did meal service cleanup typically
4 take?

5 A. Not even five minutes, less -- definitely
6 less than 10 minutes.

7 Q. And that was in every housing unit?

8 A. Yes.

9 Q. And did you supervise meal service cleanup?

10 A. I didn't, no.

11 Q. Okay. So how do you know how long it took?

12 A. Just -- just from seeing it take place.

13 Well, I guess I can say I observed it, but I didn't
14 observe it as a -- an officer or as part of my job
15 responsibility. We may have been, like, during audits
16 standing there watching meal service take place and --
17 and observe. Because typically, all the detainees
18 would participate, especially for breakfast. After
19 meal service was done, they'd clean up and they could
20 start watching TV. So it was just a matter of putting
21 all their trays on the cart, sweeping, mopping if
22 needed, throwing away trash and done.

23 Q. Okay. So sweeping, mopping?

24 A. They would wipe off the tables.

25 Q. Cleaning trays?

1 A. So they -- basically, they would take their
2 trays, put them back on a cart. They would wipe off
3 the tables, sweep the day area, mop and be done with
4 it, and that would be -- that would be it.

5 Q. And do you recall whether all the detainees
6 who were eating at the time would participate or
7 whether it was a -- a group of detainees assigned?

8 A. There was a group that was assigned, but
9 there were a lot of other detainees that just
10 volunteered to do it because, again, the quicker it
11 was done, the quicker they could start watching TV.

12 Q. And how was the group who was -- who were
13 designated to clean assigned?

14 A. A list was generated based off of the
15 detainees that were housed in that unit. If they
16 were -- if they were trustees, they weren't placed on
17 the list because they were -- they might have been
18 already working somewhere else. So it was, I want to
19 say a change from the old building to the new
20 building, the -- the number of detainees, because the
21 old building, we had smaller housing units. So I want
22 to say there was three people assigned; in the new
23 building, there was five people assigned.

24 And they would post this list on the front of
25 the officer station, and the detainees all knew

1 Q. Just like common knowledge at the facility?

2 A. Correct.

3 (Exhibit No. 12 marked

4 for identification.)

5 BY MS. STORK:

6 Q. The court reporter just handed you
7 Exhibit 12. Do you recognize this document?

8 A. Detainee orientation video, yes.

9 Q. Yes. So what is this?

10 A. This was a video that was played in intake
11 and all the housing units that basically just gave an
12 overview of the facility to the detainees.

13 Q. And you said a video. This is a PowerPoint
14 presentation, right?

15 A. It was on a loop, correct, so it came out as
16 a video.

17 Q. Okay.

18 A. Okay.

19 Q. It's been referred to as -- alternatively as
20 like a presentation and a video, so I was confused?

21 A. Okay. It was a -- it was a PowerPoint
22 presentation that was just on a continuous loop.

23 Q. Okay.

24 A. So there was this video in English and
25 Spanish. Then there was PREA videos and there were a

1 few other -- I can't remember everything that was
2 required, but everything that was required by ICE to
3 be shown. Know your rights videos that would be shown
4 in intake.

5 Q. Okay.

6 A. And then when we were in the old facility, it
7 was also played on one of the channels continuously.

8 Q. Okay. So this was shown to every detainee
9 when they entered the facility, correct, from 2004 to
10 2014?

11 MS. ANGEL: Objection.

12 BY MS. STORK:

13 Q. It didn't change?

14 A. It definitely would have changed, because I
15 can tell by the pictures and the people that are here
16 and the -- you know what? I have to go back and look
17 at the standards at that time of what were required
18 versus, you know. At the time that this was sent in
19 2014, this was updated with regards to the standards
20 at that time.

21 Q. Got it. Okay. If you turn to --
22 unfortunately, there's no page numbers. There's a
23 slide like halfway through that's titled: "Safety and
24 Dorm Sanitation."

25 Just let me know when you get there.

1 A. Okay.

2 MS. ANGEL: Sorry. Can you hang on one
3 second.

4 MS. STORK: Sure.

5 MS. ANGEL: Safety and?

6 MS. STORK: "Safety and Dorm Sanitation" is
7 the title.

8 MS. ANGEL: Sorry. I'm just trying to...

9 MS. STORK: It's okay. It's unfortunate
10 there are no page numbers.

11 MS. ANGEL: Got it. Okay.

12 BY MS. STORK:

13 Q. Are you there, Mr. Martin?

14 A. Yes.

15 Q. Okay. In the second bullet, it says: "Each
16 and every detainee must participate in the sanitation
17 program. A list of detainees is developed each day
18 and is posted for viewing."

19 Is that the list of the three- or the
20 five-person crew that you were referring to earlier?

21 A. Yes.

22 Q. "During a general cleanup, all detainees must
23 participate."

24 What is the general cleanup referring to?

25 A. That's what that's referring to. It's

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REPORTER'S CERTIFICATE

I, CONNIE A. RECOB, the undersigned Certified Court Reporter, pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify that the sworn testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were duly sworn to testify to the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that a review of which was requested; that I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the cause.

WITNESS MY HAND and SIGNATURE this 3rd day of

December, 2019.



CONNIE A. RECOB, RMR, CRR
Washington Certified Court Reporter, CCR 2631
c.recob@gmail.com

Exhibit P

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:14-cv-02887-JLK

RULE 30(b)(6) DEPOSITION OF:
DAWN CEJA - March 29, 2016
The GEO Group, Inc.

ALEJANDRO MENOCA, et al.,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

PURSUANT TO NOTICE, the Rule 30(b)(6) deposition of DAWN CEJA, THE GEO GROUP, INC., was taken on behalf of the Plaintiffs at 600 Grant Street, Suite 450, Denver, Colorado 80203, on March 29, 2016, at 9:34 a.m., before Darcy Curtis, Registered Professional Reporter and Notary Public within Colorado.

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1 A. For ICE housing units, I would say
2 approximately 13 units.

3 Q. How many different beds are there within
4 those 13 units?

5 A. It varies. The large ones contain 80.

6 Q. Okay. Do you sometimes call those units
7 pods?

8 A. Sometimes, yes.

9 Q. What else do you use to refer to them?

10 A. Housing unit.

11 Q. What are they named in order to
12 differentiate them? In other words, you don't call
13 each housing unit a housing unit. You may use a
14 letter or a name system. How does that work?

15 A. They're each annotated with a letter and
16 a number.

17 Q. What are the letters and numbers?

18 A. One section are the A units, one section
19 are B units, another section is D, as in David,
20 another section is E, as in Edward, medical area.

21 Q. Anything else?

22 A. Not regarding immigration, no.

23 Q. Okay. So I think you told me a moment
24 ago that for immigration at the Aurora Detention
25 Facility, there are 13 units?

1 A. That includes medical and E unit, yes.

2 Q. Okay. There's no C unit for immigrants?

3 A. Not for ICE, no.

4 Q. And no F or G unit?

5 A. No.

6 Q. When an ICE detainee is subject to this
7 housing unit sanitation policy, can you explain to me,
8 please, who is creating this policy.

9 A. So the policy is pieces of ACA
10 requirements, PBNDS, the ICE Performance-Based
11 National Detention Standards, and sometimes pieces of
12 corporate GEO policy. So we take all of these
13 requirements and we put them into a site-specific
14 policy.

15 Q. Who is "we"?

16 A. The facility.

17 Q. And in that case, this is the Aurora
18 facility?

19 A. Yes.

20 Q. And is that GEO?

21 A. The Aurora facility.

22 Q. When you're talking about we, you're
23 discussing The GEO Group?

24 A. I am saying the Aurora staff. Every GEO
25 facility is different, so I am only referring to

1 Aurora.

2 Q. That's all I want you to discuss for the
3 purposes of this question.

4 A. Okay.

5 Q. I'm asking: Do you know the name of the
6 person or the people, names of the people, who take
7 these three sources of the policy and put them
8 together?

9 A. It changes. Currently we have our
10 accreditation manager that does our policy review.

11 Q. Anybody else?

12 A. Everybody will review a policy, and if
13 they have additions or things that need to be deleted,
14 that's what I refer to as a policy review. It's a
15 group. Then the final policy is reviewed by the
16 warden and signed off when it's done by the warden and
17 by immigration.

18 Q. Who is "we" in the policy review group?

19 A. Usually the department heads, so it could
20 be myself, the program manager, the accreditation
21 manager, the chief of security. Usually people more
22 in the upper echelon.

23 Q. How often does that happen?

24 A. Annually.

25 Q. Who at ICE signs off on the policy?

1 A. The COTAR, the contracting officer's
2 technical representative.

3 **Q. Do you know which version of the**
4 **Performance-Based National Detention Standards the**
5 **policy is currently drawn from?**

6 A. Currently we are going off of the 2011,
7 and then I think there's been some adjustments on
8 there that are from 2013.

9 **Q. Do you happen to know which version of**
10 **the Performance-Based National Detention Standard**
11 **governs the current contract between ICE and GEO?**

12 A. The same ones that I just said.

13 **Q. Okay. The housing unit sanitation policy**
14 **applies to all ICE detainees at the Aurora Detention**
15 **Facility, correct?**

16 A. Yes.

17 **Q. Are they provided a copy of this policy?**

18 A. No.

19 **Q. What are they provided in order to know**
20 **how they need to comply?**

21 A. They, upon initial admission, review a
22 PowerPoint presentation as an orientation video. They
23 receive a handbook, a local supplement handbook, and
24 they also receive an ICE handbook. In each housing
25 unit are bulletin boards, and we post notices and

1 things along such as that on those housing unit
2 bulletin boards.

3 Q. Is it a separate PowerPoint and video?

4 A. Yes.

5 Q. Okay. And that PowerPoint includes
6 information about the housing unit sanitation policy,
7 correct?

8 A. Yes.

9 Q. Have you seen the video?

10 A. I initially put the original one
11 together, yes.

12 Q. You were responsible for compiling it.
13 Do you know if that's the one that's used right now?

14 A. There have been updates to it.

15 Q. Okay. Do you know what information it
16 provides detainees regarding the housing unit
17 sanitation policy?

18 A. I would have to review it again to give
19 you accurate information.

20 Q. Okay. Can you remember anything about
21 what it says?

22 A. No.

23 Q. Do you know what languages it's brought
24 in?

25 A. English and Spanish.

1 of anything else that the detainees are informed about
2 what they have to do to comply with the housing unit
3 sanitation policy?

4 A. Not outside of the housing unit, no.

5 Q. I would like you to take a look in Tab 7
6 of the binder in front of you. And we're going to
7 turn -- we're going to make Tab 7 Exhibit 2 to this
8 deposition.

9 (Deposition Exhibit 2 was marked.)

10 Q. I'm going to represent to you that Tab 7
11 includes documents that The GEO Group has provided to
12 the plaintiffs' counsel that are marked GEO_MEN and
13 they begin with the No. 1 and they continue through
14 the No. 159. That's at the end of Tab 7 right before
15 Tab 8. We're going to call those Bates numbers. So
16 if I use that, you know what that means.

17 A. Yes.

18 Q. If you would turn to what's marked as 55,
19 page 55 -- it's on the side, so you will have to turn
20 your binder 90 degrees -- do you recognize what's in
21 front of you?

22 A. Yes.

23 Q. What is that?

24 A. A page of the detainee handbook.

25 Q. You can turn to the previous page. And

1 at the top left-hand corner, it says, "ICE Detainee
2 Handbook."

3 A. Yes. However, I'm not sure which year
4 this is.

5 Q. Okay. Would it make a difference for the
6 answers?

7 A. Not necessarily. However, it is reviewed
8 annually.

9 Q. Sure. I'll tell you what. If you see
10 this policy and something sticks out at you as not
11 being current or not accurately reflecting GEO's
12 policies about the housing unit sanitation, let me
13 know.

14 A. Okay.

15 Q. Is that fair?

16 A. Yes.

17 Q. We'll work off of this document. If we
18 need to change it, just let us know. Fair?

19 A. Yes.

20 Q. Great. Who put this document together,
21 this ICE detainee handbook?

22 A. It's a group of people. So the handbook
23 has been in effect since I started back in 1995. So
24 over the years as standards change, contracts change,
25 the policy review committee will review this on an

1 annual basis and make changes as needed.

2 Q. And the policy review committee has
3 always been GEO or its corporate predecessor; is that
4 correct?

5 A. Local Aurora staff, yes.

6 Q. The local GEO folks in Aurora?

7 A. Yes.

8 Q. Again, I'm not asking about any GEO
9 office anywhere else for the purpose of this next line
10 of questions. Section V on page 55, do you see that
11 section?

12 A. Yes.

13 Q. And what does that say? It says, "The
14 center will maintain the highest sanitation standards
15 at all times in all locations without exception.
16 There will be an organized, supervised and continuous
17 program of daily cleaning by all detainees to maintain
18 those standards."

19 A. Yes.

20 Q. Is this part of your housing unit
21 sanitation policy?

22 A. To have high sanitation levels, yes.

23 Q. And indeed, to have an organized,
24 supervised and continuous program of daily cleaning by
25 all detainees to maintain those standards?

1 A. Correct, the voluntary work program with
2 the detainees.

3 Q. So when you read this second sentence,
4 you are understanding the organized, supervised
5 continuous program of daily cleaning by all detainees
6 to mean the voluntary work program; is that right?

7 A. It's all encompassing. So you have your
8 voluntary work program, which covers areas in laundry
9 or kitchen, and then you have your housing unit
10 sanitation, which we discussed earlier.

11 Q. Okay. What else does the voluntary work
12 program cover that is not covered by the housing unit
13 sanitation policy?

14 A. I don't follow your question.

15 Q. It's because I've been trying to sort of
16 separate these things out into topics, because I want
17 us to be in one lane, if we can, mentally.

18 A. Okay.

19 Q. Because we have a topic about the
20 voluntary work program; we have a topic about the
21 housing sanitation policy. It seems to me that you've
22 described it as two programs, the voluntary work
23 program and then the obligations of the detainees. Is
24 that a fair understanding?

25 A. I see it as your housing unit where you

1 do your housing unit sanitation, and then there is as
2 well your voluntary work program where they put in an
3 application and are chosen to work in other areas of
4 the facility.

5 Q. But sometimes the voluntary work program
6 detainees work in the housing unit; is that right?

7 A. Yes.

8 Q. If you'll turn the page to the next part
9 of the exhibit, it's page 56. Do you see on the
10 left-hand column where it says, "Housing Unit
11 Sanitation"?

12 A. Yes.

13 Q. It says, "Each and every detainee must
14 participate in the facility's sanitation program. A
15 list of detainees is developed each day by staff and
16 is posted daily for viewing. During a general cleanup
17 all detainees must participate. The assigned housing
18 unit officer will be responsible for assuring this
19 general cleanup is done on a regular basis." Do you
20 see that?

21 A. Yes.

22 Q. Is that the current policy of GEO?

23 A. Yes.

24 Q. What's a general cleanup?

25 A. After meals they have a day room area,

1 which is a common area, where all of the TVs and
2 tables are located. They all eat at these tables, so
3 after meal service, they will clean up the tables,
4 wipe down the tables, and sweep and mop the floors.

5 **Q. And that is -- according to this policy,**
6 **all detainees are required to participate?**

7 A. In that common area cleanup.

8 **Q. So that's every meal?**

9 A. Yes.

10 **Q. So when it says, "this general cleanup is**
11 **done on a regular basis," that's one of the examples.**
12 **A meal time is one of the examples; is that right?**

13 A. Yes.

14 **Q. Are there any other examples of when a**
15 **general cleanup happens?**

16 A. No. The general cleanup that that is
17 discussing is after the meal service.

18 **Q. Okay. So there's never another time when**
19 **there's a general cleanup?**

20 A. Not in the common area, no.

21 **Q. Okay. What about anywhere else?**

22 A. No.

23 **Q. All right. Every single detainee at the**
24 **Aurora Detention Facility who is detained under the**
25 **ICE contract is bound by this housing unit sanitation**

1 **policy; is that right?**

2 A. If they're housed in a housing unit.

3 **Q. Where else could they be housed if**
4 **they're an ICE detainee?**

5 A. Medical.

6 **Q. So if you're in medical, you're not**
7 **subject to those cleanup requirements?**

8 A. If there's a medical condition or some
9 type of contagious disease that they may have, then,
10 no.

11 **Q. Okay. How many people can be housed in**
12 **medical at a time?**

13 A. I believe there's 11 beds in there.

14 **Q. Okay. What's the current bed count at**
15 **the facility for ICE detainees?**

16 A. Today?

17 **Q. Yes. How many available beds do you**
18 **have?**

19 A. The contract is up to 525.

20 **Q. So the maximum number of beds that you**
21 **can supply to ICE under your contract?**

22 A. Yes.

23 **Q. If you could, I now would like you to**
24 **take a look at pages 46 and 51 -- excuse me -- 46**
25 **through 51. So you're going to go backwards and**

1 Q. And explain to me what that is. How do
2 you get there? What's the purpose of it?

3 MS. FELTON: Object to form.

4 Q. (BY MR. FREE) Compound. Let's just
5 explain to me what the disciplinary segregation unit
6 is.

7 A. So if a detainee is charged with an
8 offense, they will -- depending on the offense, they
9 could go to disciplinary segregation. However, if
10 they haven't had their hearing, they will be on the
11 administrative segregation side, so they will still be
12 afforded all of the opportunities, such as TV and
13 recreation and everything else, until their hearing is
14 done. Once the hearing is done, depending on which
15 level of offense, after their hearing if they are
16 found guilty and disciplinary segregation time is
17 warranted, they will be moved to the other side so
18 they can't see the television.

19 Q. How does disciplinary segregation differ
20 from the living unit that the detainee is normally
21 detained within?

22 A. There's not a lot of difference. And let
23 me explain why. Because in our segregation unit,
24 they're still afforded television and they are also
25 afforded social time. They still get recreation.

1 They still get all of the regular amenities that
2 general population gets. It's just more of a
3 restricted movement.

4 **Q. How is movement restricted within**
5 **disciplinary segregation?**

6 A. So they don't get as much time out of
7 their cell as you would in general population. So
8 social time for somebody that is in administrative
9 segregation can be up to two hours a day where they
10 can come out of their cell and socialize with other
11 detainees that are in administrative segregation in
12 the segregation unit.

13 **Q. What about for disciplinary segregation?**
14 **How much social time is there there?**

15 A. No social time for disciplinary
16 segregation.

17 **Q. Unlike the situation you described**
18 **earlier in the general pop housing units, in both**
19 **administrative segregation and disciplinary**
20 **segregation, the doors are closed, right?**

21 MS. FELTON: Object to form.

22 A. Yes.

23 **Q. (BY MR. FREE) Is there anybody else in**
24 **the detainee's cell with him or her when he or she is**
25 **in administrative segregation?**

1 A. They are all single cell units.

2 Q. What about in disciplinary segregation?

3 Is anybody else in the cell with a person who is
4 detained in disciplinary segregation?

5 A. No. It's one unit. So one side is
6 disciplinary, one is administrative.

7 Q. What's the purpose of administrative
8 segregation?

9 A. That can vary also. So there's
10 protective custody. A detainee can request to be
11 placed on protective custody. We could say, hey, you
12 need to be put on protective custody, based on threats
13 that are being made, for that person's safety. ICE
14 can request somebody be placed in administrative seg
15 for protective custody purposes. A lot of people just
16 like to go back there for the peace and quiet. We
17 only average about four people back there, so it's
18 very quiet. They get to watch TV. Some people really
19 enjoy it back there.

20 Q. I don't understand. You just told me
21 that a lot of people like to go to administrative
22 segregation for the peace and quiet. And I think I
23 understood you to testify that there are only four
24 people back there during a given day?

25 A. On average.

1 Q. You have 500 beds that at some point are
2 in some level of being filled; is that right?

3 A. 525.

4 Q. So if it's so popular, why doesn't
5 everybody go back there during the day?

6 A. Some of them do for short periods of
7 time.

8 Q. Like how long?

9 A. It depends. Some go back there for a
10 week. Some go back there for a few days. Some just
11 say they can't handle general population living.

12 Q. They go to administrative segregation,
13 not disciplinary segregation?

14 A. Correct. Only -- and I'm only discussing
15 administrative segregation.

16 Q. Let's talk about disciplinary
17 segregation. Same explanation that you gave for
18 administrative segregation as far as the purpose, or
19 does it have a different purpose?

20 A. As I stated earlier, if you get charged
21 with a violation, depending on the level, usually 100
22 and 200 levels, you're automatically going to be taken
23 back there and be put on the administrative
24 segregation side pending your hearing.

25 Q. I don't know that that answers my

1 (At this time Mr. Turner entered the
2 room.)

3 **Q. Do you recognize this document?**

4 A. Yes.

5 **Q. Or these documents?**

6 A. Yes.

7 **Q. What are they? Let's start with the**
8 **first page.**

9 A. They are all different versions of the
10 cleanup list over the years that has been used to
11 specify who is going to clean up after meal service.

12 **Q. Who created these documents?**

13 A. I do not know who created any of these
14 versions.

15 **Q. Okay. How often are they distributed to**
16 **detainees?**

17 A. Usually --

18 MS. FELTON: Object to form.

19 A. They're not distributed to detainees, but
20 usually what happens is the assigned officer on the
21 graveyard shift will fill out the names and the person
22 who will be responsible for the following day's meals,
23 so when dayshift comes on, it will be ready to go.

24 **Q. (BY MR. FREE) Okay. And then where is**
25 **this posted, if it's posted?**

1 A. Usually it's posted right by the detainee
2 mailboxes. They fold it and hang it over the edge.

3 Q. As far as you know, is this the way that
4 the detainees find out that they're responsible for
5 cleaning up after meals pursuant to the housing unit
6 sanitation policy?

7 A. Yes.

8 Q. Okay. This falls -- I just want to make
9 sure I understand. This falls outside of the realm of
10 the voluntary work program; is that right?

11 A. This is for all of the common area, yes.

12 Q. This is within the housing unit
13 sanitation policy and not the voluntary work program?

14 A. It's part of the living area.

15 Q. How does that answer my question?

16 A. What I referred to before, when we had
17 the same discussion, that the common area is part of
18 the living area. It's all connected.

19 Q. Let's try this a different way. Do
20 people get paid for doing these jobs?

21 A. No.

22 Q. Are they required to do these jobs?

23 A. To keep the area clean, we assign them,
24 yes.

25 Q. The answer is, yes, they're required to

1 do these jobs?

2 A. Yes.

3 Q. If they don't do these jobs, they can
4 potentially be charged with a disciplinary infraction,
5 a 300-level infraction?

6 A. Possibly, yes.

7 Q. And that could possibly lead to solitary
8 confinement?

9 MS. FELTON: Object to form.

10 Q. (BY MR. FREE) Excuse me. Administrative
11 segregation; is that right?

12 A. Yes.

13 Q. And this is something that is explained
14 to the detainees when they come in?

15 A. It's in the handbook, yes.

16 Q. And this is a uniform policy throughout
17 all of the tiers in which ICE detainees are kept?

18 MS. FELTON: Object to form.

19 A. I don't know.

20 Q. (BY MR. FREE) Let me clarify. In each
21 place where an ICE detainee is housed, does GEO use a
22 cleanup list, like the ones we've just reviewed, to
23 notify the detainees of their responsibilities for
24 cleaning?

25 A. I do not --

1 you'll turn to PL 54, the 300-level offense that you
2 were referring to earlier, would that have been 306,
3 refusal to clean assigned living area?

4 A. Yes.

5 Q. Okay. And that's in the high moderate
6 offense category; is that right?

7 A. Yes.

8 Q. There are low moderate offense
9 categories, but this is not in them; is that right?

10 A. Yes. If you're referring to the 400
11 level, yes.

12 Q. That is right. And in the list of
13 sanctions that apply to high moderate offenses,
14 detainees are informed through this document that GEO
15 could initiate criminal proceedings?

16 MS. FELTON: Object to form.

17 Q. (BY MR. FREE) Is that right?

18 A. That's what is listed, yes.

19 Q. I'm going to ask whether these other
20 sanctions could follow from a 306 violation. I think
21 the one we talked about earlier was a disciplinary
22 segregation, up to 72 hours, right?

23 A. Yes.

24 Q. They could lose a job; is that right?

25 A. Yes.

1 Q. They could be given a disciplinary
2 transfer; is that right?

3 A. That's what is listed.

4 Q. That is GEO's policy?

5 MS. FELTON: Object to form.

6 A. This comes out of the PBNDS.

7 Q. (BY MR. FREE) I'm sorry. I thought you
8 said it was in the ICE detainee handbook.

9 A. Yes, but it's based off of the PBNDS.

10 Q. Is it your understanding that if there's
11 a discrepancy between GEO's policy or practice and the
12 PBNDS, the PBNDS controls; in other words, GEO must
13 follow the PBNDS?

14 MS. FELTON: Object to form.

15 A. Yes. It is part -- it's tied to the
16 contract.

17 Q. (BY MR. FREE) Okay. Yes, exactly. So
18 GEO, as part of the contract, has agreed to abide by
19 the PBNDS; is that right?

20 A. Yes.

21 Q. To the extent this ICE detainee handbook
22 that's given to the detainees contains things that
23 aren't explicitly mentioned in the PBNDS, it's GEO's
24 requirement that these things comply with the PBNDS,
25 right?

1 MS. FELTON: Object to form.

2 A. I don't understand.

3 Q. (BY MR. FREE) Okay. The PBNDS does not
4 contain all of these lists of codes, right?

5 A. I'm pretty sure they do.

6 Q. Okay. We'll come back to that.

7 A. I'm pretty sure.

8 Q. This is taken directly from the PBNDS?

9 A. I'm pretty sure.

10 Q. And that's 2008, 2011?

11 A. It's been in the last two versions, the
12 2008 and the 2011.

13 Q. Okay.

14 A. That's where we get it from.

15 Q. As part of your duties as assistant
16 warden of operations, have you ever seen a document
17 called a statement of work?

18 A. That sounds like something that would be
19 in the contract.

20 Q. Okay. Do you have any understanding as
21 to what the purpose of that document is?

22 MS. FELTON: Object to form.

23 Q. (BY MR. FREE) No?

24 A. It's in the contract.

25 Q. Okay.

1 say force to work.

2 Q. (BY MR. FREE) I'll rephrase. Thank you
3 for clarifying that you didn't understand. Is there
4 anything in the Performance-Based National Detention
5 Standards that expands the scope of work that
6 detainees may be required to do?

7 A. Maybe not in the PBNDS, but I would also
8 want to check the contract to see if there's anything
9 specific.

10 Q. That's a great idea. Let's look at it.
11 If you turn to page 14 of the same tab, Tab 7, do you
12 see at the top it says, "Section H - Special Contract
13 Requirements"?

14 A. Yes.

15 Q. And I will proffer to you that if you go
16 backward, you're going to find that this is part of
17 the GEO contract that has been disclosed to the
18 plaintiffs in heavily redacted form at GEO Menocal
19 Bates 1 all of the way to this page, page 14. This is
20 all part of their contract.

21 A. Okay.

22 Q. Okay. Does that look right to you, that
23 that's all part of the contract?

24 A. Yes.

25 Q. So it says, "The following

1 constraints" -- this is at Section H-5. The previous
2 several paragraphs are blocked out. We can't see
3 them. "The following constraints comprise the
4 statutory, regulatory, policy and operational
5 consideration that will affect the contractor." It
6 says, "Constraints include, but are not limited to" --
7 if you turn the page and go to page 15, you look at
8 No. 10 --

9 A. Yes.

10 Q. -- it says the PBNDS. In this one, it
11 says 2008, so I'm a little confused about the
12 testimony earlier that 2011 applies. It's okay. For
13 our purposes, we're just going to agree that '11 is
14 what applies, right?

15 A. 2011 does apply because there was a
16 contract modification that incorporates all of the
17 2011 standards into the current contract.

18 Q. So we don't have that, but maybe we'll
19 get it. Do you know if that contract modification
20 alters in any way the voluntary work program?

21 A. From what I recall, is that it
22 incorporates the 2011 PBNDS, so everything that's in
23 the PBNDS applies.

24 Q. Got it. So if you look at the things
25 that the contractor must follow, the statutory,

1 regulatory, policy and operational consideration,
2 No. 10 says the PBNDS. Does that make sense?

3 A. Yes.

4 Q. Okay. So when you say you're going to
5 have to look at the contract, the contract requires
6 GEO to follow the PBNDS, right?

7 A. Yes.

8 Q. Okay. Now, you seem like you want to say
9 something else.

10 A. I just want to make sure that we're on
11 the same page here.

12 Q. Sure.

13 A. Because I understand that this
14 incorporates the 2008. However, there might be a
15 section in the contract that also refers to other
16 sections in the contract that would reflect back on
17 the PBNDS, if that makes sense.

18 Q. As far as you know, the PBNDS that is in
19 front of you is the one that's in force and the one
20 that GEO follows?

21 A. Yes.

22 Q. And as far as you know, there's nothing
23 else in the PBNDS that would permit GEO to require
24 additional work by detainees?

25 A. Correct.

REPORTER'S CERTIFICATE

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

I, Darcy Curtis, Registered Professional Reporter and Notary Public ID 20064016972, State of Colorado, do hereby certify that previous to the commencement of the examination, the said DAWN CEJA was duly sworn by me to testify to the truth in relation to the matters in controversy between the parties hereto; that the said deposition was taken in machine shorthand by me at the time and place aforesaid and was thereafter reduced to typewritten form; that the foregoing is a true transcript of the questions asked, testimony given, and proceedings had.

I further certify that I am not employed by, related to, nor of counsel for any of the parties herein, nor otherwise interested in the outcome of this litigation.

IN WITNESS WHEREOF, I have affixed my signature this 12th day of April, 2016.

My commission expires May 2, 2018.

 X Reading and Signing was requested.

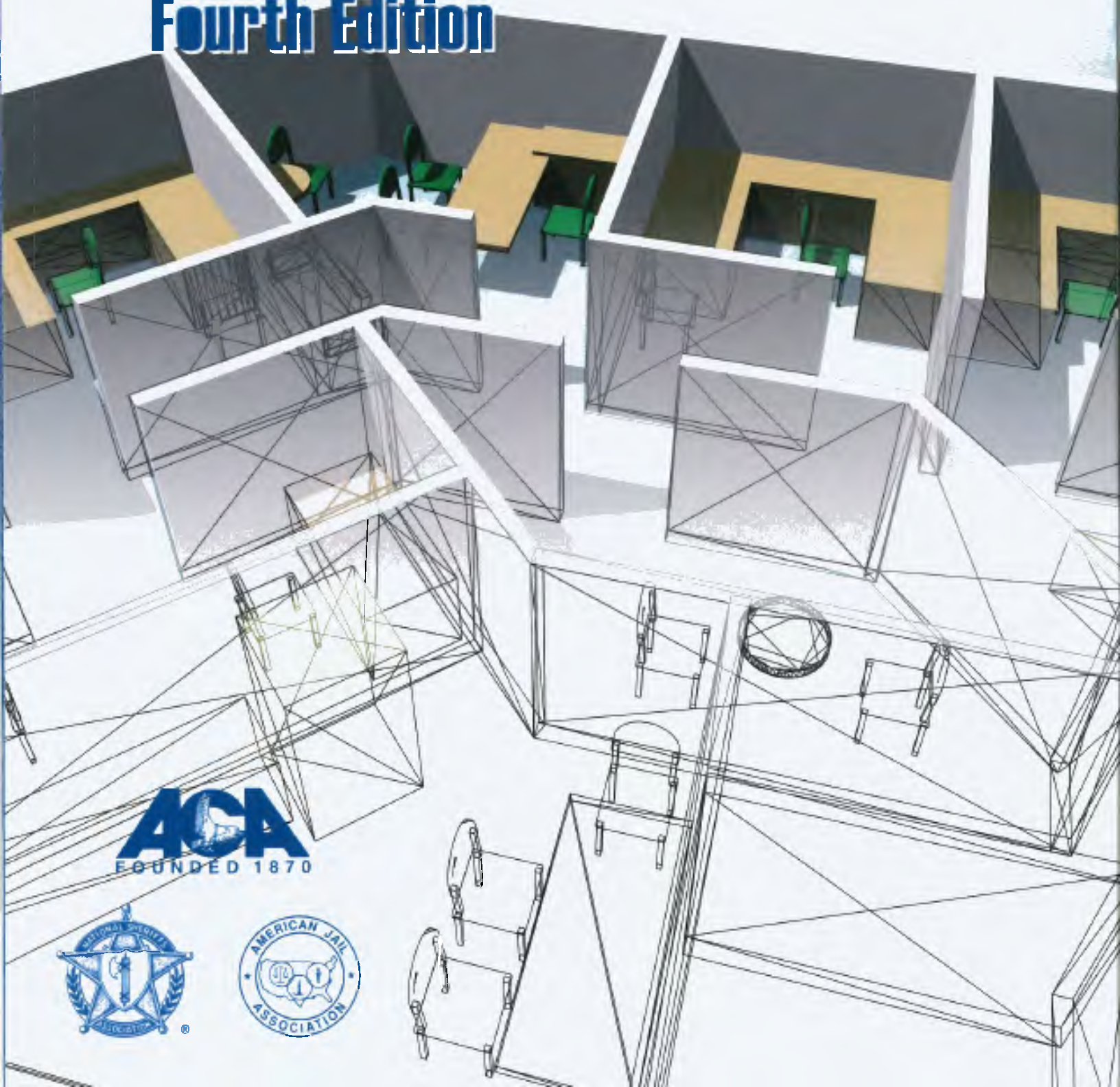
 Reading and Signing was waived.

 Reading and Signing is not required.

Exhibit Q

Performance-Based Standards for Adult Local Detention Facilities

Fourth Edition



**PERFORMANCE-BASED
STANDARDS
FOR
ADULT LOCAL
DETENTION FACILITIES**

Fourth Edition

American Correctional Association

**in cooperation with the
Commission on Accreditation for Corrections**

June 2004

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Part 1: Safety

- (13) Number of staff injuries (other than fire) requiring medical treatment in the past 12 months divided by the average daily population of staff in the past 12 months.
- (14) Number of inmate lawsuits related to safety or sanitation found in favor of the inmate in the past 12 months divided by the number of inmate lawsuits related to safety or sanitation in the past 12 months.

EXPECTED PRACTICES

Sanitation

4-ALDF-1A-01

(Ref. 3-ALDF-4D-01) **(MANDATORY) The facility complies with all applicable laws and regulations of the governing jurisdiction, and there is documentation by an independent, outside source that any past deficiencies noted in annual inspections have been corrected. The following inspections are implemented:**

- weekly sanitation inspections of all facility areas by a qualified departmental staff member
- comprehensive and thorough monthly inspections by a safety/sanitation specialist
- at least annual inspections by federal, state, and/or local sanitation and health officials or other qualified person(s)

Comment: None.

Protocols: Written policy and procedure. Sanitation and safety inspection checklists. Laws and regulations.

Process Indicators: Completed inspection checklists and reports. Documentation of corrective action. Inspection reports.

4-ALDF-1A-02

(Ref. 3-ALDF-4D-03) **(MANDATORY) Disposal of liquid, solid, and hazardous material complies with applicable government regulations.**

Comment: None.

Protocols: Written policy and procedure. Written plan. Internal health/sanitation inspection checklists that include solid waste issues.

Process Indicators: Plan that has been approved by regulatory agency. Trash disposal contract. Completed inspection reports/forms, including documentation that identified deficiencies were corrected. Observation.

4-ALDF-1A-03

(Ref. 3-ALDF-4D-04) **(MANDATORY) Vermin and pests are controlled. A control plan includes, at a minimum, monthly inspections by a qualified person.**

Comment: None.

Protocols: Written policy and procedure. Control plan.

Process Indicators: Pest control contracts. Maintenance agreements. Trash disposal contracts. Inspection reports, including documentation that identified deficiencies were corrected.

Housekeeping

4-ALDF-1A-04

(Ref. 3-ALDF-4D-05) **The facility is clean and in good repair. A housekeeping and maintenance plan addresses all facility areas and provides for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and inmates.**

Comment: None.

Protocols: Written policy and procedure. Housekeeping plan. Maintenance plan. Inspection forms. Inmate handbook (describing inmate responsibilities).

Process Indicators: Inspection reports, completed forms, including documentation that identified deficiencies were corrected.

Crowding

4-ALDF-1A-05

(Ref. 3-ALDF-2B-04) **The number of inmates does not exceed the facility's rated bed capacity.**

Comment: None.

Protocols: Written policy and procedure. Statement of rated capacity. Facility plans/specifications.

Process Indicators: Inmate population reports. Facility logs. Observation.

Physical Plant

4-ALDF-1A-06

(Ref. 3-ALDF-2A-01) **The facility conforms to applicable federal, state, and local building codes. (Renovation, Additions, New Construction Only)**

Comment: Conformance with codes is indicated by licensing or, in cases where a license is not issued, by letters or certificates of compliance. If the agency is not subject to local building codes, appropriate state or national codes must be applied.

Protocols: Written policy and procedure. Copies of applicable sanitation and health codes. Internal health/sanitation inspection checklists.

Process Indicators: Report, license, or certificate from the appropriate local and/or state agency. Inspection reports/results—internal and external. Maintenance and repair records.

Water Supply

4-ALDF-1A-07

(Ref. 3-ALDF-4D-02) **(MANDATORY) The facility's potable water source and supply, whether owned and operated by the public water department or the facility, is certified at least annually by an independent, outside source to be in compliance with jurisdictional laws and regulations.**

Comment: None.

Exhibit R

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLORADO

CIVIL ACTION NO.: 1:14-CV-02887-JLK

ALEJANDRO MENOCA, et al.,

Plaintiffs,

-vs-

THE GEO GROUP, INC.,

Defendant.

DEPOSITION OF AMBER MARTIN

Friday, February 28, 2020
9:23 a.m. - 11:40 a.m.

SHAVITZ LAW GROUP, PA
951 Yamato Road, Suite 285
Boca Raton, Florida

Stenographically Reported By:
JULIE BRUENS, FPR
Florida Professional Reporter

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BY: CHERYL WILKE, ESQUIRE

- - -

1 A. No.

2 Q. Did you have any discussions with anyone
3 regarding the fact that you're being deposed today?

4 A. No.

5 Q. Have you had any conversations with anyone
6 else besides your attorney about this case?

7 A. Dan Raxio (phonetic).

8 Q. And who is Mr. Raxio?

9 A. He's the executive vice president for contract
10 compliance for GEO.

11 Q. Now, you have been deposed previously in this
12 litigation; correct?

13 A. Correct.

14 Q. And so I know it was relatively recent, and
15 from my review of the transcript, it looks like you went
16 through a pretty lengthy recitation of your background
17 at GEO. I'm not going to make you repeat all that again
18 today. If you can just tell me what your current role
19 is?

20 A. Executive vice president of contract
21 administration.

22 Q. And how long have you been in that role?

23 A. That role, since 2008.

24 Q. Okay. And to the best of your recollection,
25 has anything else about your background or current

1 responsibilities at GEO changed since the last time you
2 were deposed in this case?

3 A. No, it hasn't.

4 Q. Okay. And as you discussed in your last
5 deposition in this case, there are some housekeeping
6 tasks in the Aurora facility that all detainees are
7 required to perform; correct?

8 A. Correct.

9 Q. And that includes general cleaning of common
10 areas; correct?

11 A. Correct.

12 Q. And cleaning up after meals on a rotational
13 basis; correct?

14 A. Correct.

15 Q. And for purposes of today's deposition, those
16 housekeeping tasks are what I'm referring to when I
17 refer to the Housing Unit Sanitation Policy. Can we
18 agree on that?

19 A. Yes.

20 Q. Okay. And is it correct to say that GEO
21 believes that the cleaning pursuant to the Housing Unit
22 Sanitation Policy is authorized by the PBNDs?

23 A. Yes.

24 Q. What's the PBNDs?

25 A. The performance-based national detention

1 standards that ICE goes by as far as requirements and
2 standards for their facilities.

3 Q. Okay. And is GEO required to conform with the
4 PBNSD pursuant to its contract with ICE?

5 A. Yes.

6 Q. And that's at the Aurora facility; correct?

7 A. Yes.

8 Q. My understanding is that the PBNSD is reviewed
9 periodically and revised periodically; is that correct?

10 A. That's up to ICE.

11 Q. But is it fair to say that the PBNSD -- that
12 ICE periodically revises the PBNSD?

13 A. They revised it once since 2008, so --

14 Q. Okay. And was that in 2011?

15 A. They revised it 2011 and 2016, I believe.

16 Q. So twice since 2008?

17 A. Yes.

18 Q. Okay. Sorry. Give me a moment. As you know,
19 the PBNSD is a very large documents.

20 MR. BARNACLE: Should I get my PBNSD binder?

21 MS. TURNER: I have one for you.

22 BY MS. TURNER:

23 Q. I'm handing you a document that's marked as
24 Exhibit 2, if you can take a look at it. It's my
25 understanding that this is the 2008 version of the

1 PBNDS. Let me know if you agree.

2 (Thereupon, the document was marked as
3 Plaintiff's Exhibit 2 for identification.)

4 A. It's dated 2008, yes.

5 Q. Okay. Where do you see that date?

6 A. Bottom of page one and throughout.

7 Q. In the lower right corner?

8 A. Yes.

9 Q. Okay. And recognizing this is a lengthy
10 document, which portion of the PBNDS do you -- does GEO
11 believe authorizes the housekeeping tasks that are part
12 of the Housing Unit Sanitation Policy?

13 A. There's several. Part one, section two.

14 Q. Okay. We're going to go through them. And
15 I'll say unfortunately, this document, the internal
16 numbering is not the most intuitive, so it may take us a
17 few minutes to find the relevant page.

18 I believe part one, section two starts, on
19 looking at the bates number in the lower right corner,
20 62932. Let me know if this is the section that you're
21 thinking of.

22 A. Yes.

23 Q. Okay. And which -- can you point me to the
24 language in this section that GEO believes authorizes
25 the house keeping under the Housing Unit Sanitation

1 Policy?

2 A. You have to give me a moment to look at it.

3 Q. Sure. Of course.

4 A. Section C.

5 Q. And that's on the page bates numbered 62934?

6 A. Yes, and general housekeeping.

7 Q. And which portion of that in GEO's opinion
8 relates to the Housing Unit Sanitation Policy?

9 A. The facility administrator shall ensure that
10 staff and detainees maintain a high standard facility,
11 sanitation, and general cleanliness. When possible, the
12 use of nontoxic cleaning supplies is recommended. And
13 then it outlines all the areas.

14 Q. Okay. Now, this does not say whether the
15 detainees will be doing this cleaning pursuant to the
16 Voluntary Work Program; correct?

17 A. Correct.

18 Q. Okay. It doesn't specify for these tasks
19 whether they will be performed by staff or detainees;
20 correct?

21 A. Correct.

22 Q. Okay. Go ahead.

23 A. However, section BA, general environmental
24 health does outline --

25 Q. I'm sorry, can you let us know what bates page

1 you're on?

2 A. I'm sorry. This is 62933.

3 Q. Okay.

4 A. General environmental health, environmental
5 health conditions shall be maintained at a level that
6 meets recognized standards of hygiene, including those
7 from the American Correctional Association, Occupational
8 Safety and Health Administration, and Environmental
9 Protection, etc.

10 I would identify the American Correctional
11 Association also identifies that detainees will keep
12 their common areas clean.

13 Q. Okay. And what American Correctional
14 Association standard are you referring to there?

15 A. You're going to have to give me the ACA
16 standards for me to look at.

17 Q. We can do that.

18 A. I might be able to find it through here.

19 Q. I have it right here for you. So this is
20 Exhibit 3. The court reporter has handed you Exhibit 3,
21 which I believe are the ACA standards; correct?

22 (Thereupon, the document was marked as
23 Plaintiff's Exhibit 3 for identification.)

24 A. Correct.

25 Q. So if you could just point me to -- I think

1 you just testified that one of these standards requires
2 detainees to clean the common areas. If you could point
3 me to that, please.

4 MR. BARNACLE: Object to the form,
5 misrepresents the prior testimony.

6 MS. TURNER: Could you read back her prior
7 testimony?

8 (Thereupon, the court reporter read back the
9 answer.)

10 BY MS. TURNER:

11 Q. Okay. So if you could let me know which
12 portion of the ACA standards states that detainees will
13 keep their common areas clean?

14 A. Part one, safety, page 34ALDF-1A-04,
15 housekeeping. The facility is clean and in good repair.
16 Our housekeeping and maintenance plan addresses all
17 facility areas and provides for daily housekeeping and
18 regular maintenance by assigning specific duties and
19 responsibilities to staff and inmates.

20 Q. Okay. So the ACA standards apply to a wide
21 variety of correctional facilities; correct?

22 A. Yes.

23 Q. That is they apply not to just to pretrial or
24 civil detainee facilities, but also to prisons for
25 convicted felons; correct?

1 A. Yes, and there's different standards for those
2 different types of facilities.

3 Q. But this uses the word inmate; correct?

4 A. Correct, but this is under the detainee
5 facility standards.

6 Q. Okay. And so this standard 1A-04 states that
7 the housekeeping and maintenance plan addresses all
8 facility areas and provides for daily housekeeping and
9 regular maintenance by assigning specific duties and
10 responsibilities to staff and inmates. This doesn't say
11 anything about common areas; correct?

12 A. I would say the housekeeping and maintenance
13 plan addresses all facility areas, would include common
14 areas.

15 Q. But it doesn't specify that here; correct?

16 A. No.

17 Q. And it doesn't specify which duties and
18 responsibilities are to be performed by staff; correct?

19 A. No.

20 Q. And it doesn't say which duties and
21 responsibilities are to be performed by inmates;
22 correct?

23 A. No.

24 Q. Okay. So let's go back to exhibit --

25 MR. BARNACLE: And I'll object again. I think

1 you misrepresented her prior testimony that she was
2 referring to the one standard, and you just cut her
3 off as she was trying to explain other standards as
4 well.

5 MS. TURNER: Let's go back to the other
6 standards then.

7 BY MS. TURNER:

8 Q. What other standards were you referring to,
9 Ms. Martin?

10 A. 18, page two under sanitation, 4ALDF1A-01.
11 The facility complies with all applicable laws and
12 regulations of governing the jurisdictions, and there's
13 documentation by independent outside source, any past
14 deficiencies noted in annual inspections have been
15 corrected.

16 The following inspections are implemented:
17 Weekly sanitation inspections of all facility areas by
18 qualified department staff, thorough monthly
19 inspections, at least annual inspections by Federal,
20 state, or local.

21 Q. Okay. This standard doesn't refer to who is
22 going to be conducting those inspections; correct?

23 A. No, it doesn't.

24 Q. And it doesn't refer to who is going to be
25 doing the cleaning; correct?

1 A. No. I'm just saying it's under general
2 sanitation that the facility is going to be maintained,
3 and under housekeeping, both staff and detainees are
4 responsible for that.

5 Q. Okay. And there is a program called the
6 Voluntary Work Program at the Aurora facility; correct?

7 A. Yes.

8 Q. And as part of the Voluntary Work Program,
9 there are some detainees that perform cleaning and
10 sanitation in the facility; correct?

11 A. Correct.

12 Q. Just a housekeeping note, if you're reading
13 out loud from a document, I ask that you read somewhat
14 slowly so the court reporter can capture everything that
15 you're saying. I don't want to make her job extra
16 difficult.

17 Okay. Anything else on the ACA standards that
18 you wanted to point out?

19 A. No, but there's other standards obviously that
20 are part of the PBNDS, such as the detainee handbook and
21 ACA.

22 Q. Sure. So we will discuss the detainee
23 handbook a little bit later, and we did review a number
24 of standards with Mr. Ragsdale yesterday. What I'm
25 trying to find out currently is which portions of the

1 PBNDS relate to the Housing Unit Sanitation Policy. And
2 so we were looking at the 2008 version. I think we
3 reviewed the general environmental health section;
4 correct?

5 A. Yes.

6 Q. Are there other sections of the PBNDS that
7 relate to the housekeeping requirement of the Housing
8 Unit Sanitation Policy?

9 A. Yes.

10 Q. Okay. What are those?

11 A. Just one moment.

12 Q. If you want to tell me the section, it's
13 possible I have the page number noted.

14 A. Part four, care.

15 Q. Okay. So I believe that part four starts on
16 page 63516 with food service. I'm not sure which
17 subsection you're pointing to. I know that the personal
18 hygiene section, if that's what you're looking for, is
19 on 63217.

20 A. I know it's in here.

21 Q. Is there anything in the personal hygiene
22 section about housekeeping of the facility as opposed to
23 personal hygiene?

24 A. No.

25 Q. No? Okay. I would like to direct your

1 housekeeping required under GEO's Housing Unit

2 Sanitation Policy?

3 A. No, just -- again, just by reference.

4 Q. So other documents that are incorporated by
5 reference, I believe you mentioned the ACA standards and
6 the ICE detainee handbook; correct?

7 A. Yes.

8 Q. Okay. You can put that binder aside. The
9 next exhibit, Colin, you will have to use your binder,
10 your PBNDS binder from yesterday.

11 Okay. I've handed you a document that has
12 been marked as Exhibit 4. And this I believe is the
13 2011 version of the PBNDS; correct?

14 (Thereupon, the document was marked as
15 Plaintiff's Exhibit 4 for identification.)

16 A. Correct.

17 Q. Okay. So the good news is I think this one
18 actually has a table of contents, so it's a little
19 easier to navigate.

20 And so again, I just want to ask you the same
21 questions. Which portions of the 2011 PBNDS does GEO
22 believe make reference to the housekeeping required
23 under the Housing Unit Sanitation Policy? And there is
24 a table of contents on page 64020.

25 A. Just give me a moment to look through it.

1 Q. Sure.

2 A. 64041, section A, environmental health and
3 safety. Again, the general environmental health,
4 environmental health conditions shall be maintained at a
5 level that meets recognized standards of hygiene,
6 including those from the American Correctional
7 Association, Occupational Safety and Health
8 Administration, Environmental Protection Agency, etc.,
9 and it again references the American Correctional
10 Association.

11 Q. And those are the same standards that we
12 reviewed a moment ago?

13 A. Yes.

14 Q. Okay. And again, this section of the 2011
15 PBNDS on page 64041 doesn't reference specifically who
16 is going to be performing the sanitation
17 responsibilities outlined; correct?

18 A. No, just by reference.

19 Q. By reference to other documents?

20 A. Yes.

21 Q. Okay. And when you say by reference, are you
22 talking about the list of A through F under A1 or
23 something else?

24 A. The list A through F under A1.

25 Q. Okay. What other sections of the 2011 PBNDS

1 does GEO believe reference the Housing Unit Sanitation
2 Policy?

3 A. Page 325. I'm sorry, 64345.

4 Q. Yeah. This is the section of the 2011 PBNS
5 dealing with the Voluntary Work Program?

6 A. Yes, section C, personal housekeeping
7 required.

8 Q. Okay. And I believe this language is very
9 similar to the language in the 2008 PBNS; correct?

10 A. Correct.

11 Q. And it says all detainees are responsible for
12 personal housekeeping; right?

13 A. Correct.

14 Q. It doesn't specify what that housekeeping is?

15 A. No.

16 Q. But it does say detainees are required to
17 maintain their immediate living area in a neat and
18 orderly manner by, and then there are four specific
19 bullet points there; right?

20 A. Correct.

21 Q. Okay. And other than those four specific
22 bullet points, it doesn't say anything about what
23 housekeeping detainees are responsible for; correct?

24 A. No. Just again, by reference.

25 Q. And by reference, what are you referring to?

1 A. References within the PBNDS such as the ACA
2 and the detainee handbook.

3 Q. Okay. And so again, here in this document on
4 page 64345, it doesn't mention cleaning common areas;
5 correct?

6 A. No. Section 12.

7 Q. Are there other sections of this 2011 PBNDS
8 that reference the Housing Unit Sanitation Policy?

9 A. 064042, under staff and detainee safety,
10 paragraph two, detainee living area safety shall be
11 emphasized to staff and detainees to include providing
12 as noted in the standards a housekeeping plan.

13 Section three, general housekeeping, the
14 facility administrators shall ensure that staff and
15 detainees maintain a high standard of facility
16 sanitation and general cleanliness. When possible, use
17 of nontoxic cleaning supplied is recommended, and then
18 it outlines everything that is under the general
19 housekeeping area.

20 Q. Okay. And again, here, it doesn't specify who
21 is to be performing that work or whether it's going to
22 be performed by detainees pursuant to the Voluntary Work
23 Program; correct?

24 A. No, it doesn't, but it does identify you'll
25 have a housekeeping plan.

1 paragraph from the bottom and the second paragraph from
2 the bottom states unless otherwise specified, all plans,
3 policies, and procedures including those identified in
4 the ACA standards shall be developed by the contractor
5 and submitted in writing to the CO for review and
6 concurrence prior to the issuance of the NTP. Is that
7 consistent with your understanding of how policies and
8 procedures were developed under this contract?

9 A. Yes. Like I said, in the startup phase of a
10 facility, they would have been developed and submitted.

11 Q. This isn't the startup phase; correct? This
12 is 2006.

13 A. It's a new contract, so it would still be
14 considered a startup phase.

15 Q. I see. So each time there's a new contract,
16 all the procedures and policies get rolled out a
17 second -- anew?

18 A. Yes.

19 Q. And just to clarify some acronyms, the CO in
20 that sentence, does that refer to the contracting
21 officer?

22 A. Yes.

23 Q. And what does the NTP refer to?

24 A. Notice to proceed.

25 Q. What's the notice to proceed?

1 A. Prior to the facility being operational and a
2 new contract, it has to be inspected, all the policies
3 and procedures have to be approved, and then we request
4 notice to proceed, and the government goes and does an
5 inspection and gives us a notice to proceed for
6 operations.

7 Q. Got it. And so pursuant to this instruction,
8 then, GEO would develop all its policies and procedures
9 and submit them to the government for review; correct?

10 A. Correct.

11 Q. Okay. If I can direct your attention to page
12 59656.

13 A. Okay.

14 Q. And so section 7.8 makes reference to a
15 staffing plan. Do you see that?

16 A. Yes.

17 Q. What's a staffing plan?

18 A. It's the staffing -- the section of how many
19 staff and where the staff would be located --

20 Q. Okay.

21 A. -- per the contract.

22 Q. And that would be -- go ahead.

23 A. That's going to operate the facility.

24 Q. And that would be GEO staff; correct?

25 A. Yes.

1 Q. It doesn't specify in the staffing plan how
2 many Voluntary Work Program --

3 A. It has nothing to do with the staffing plan.

4 Q. Okay. So Voluntary Work Program workers are
5 not part of the staffing plan submitted to ICE?

6 A. Correct.

7 Q. Okay. And what's the process for developing a
8 staffing plan?

9 A. Identifying the jobs that need to be done and
10 the areas that need to be supervised. I mean, we have
11 been doing this for a long time, so we just identify the
12 executive staff, the health service staff, the program
13 staff, etc., maintenance staff.

14 Q. And GEO comes up with that plan and submits it
15 to ICE for approval?

16 A. Yes. That's actually submitted during the RFP
17 process, because it would be part of the pricing, and it
18 would have to be approved before the contract award.

19 Q. And RFP process is --

20 A. Request for proposal.

21 Q. Okay. And that's when the government puts
22 basically a bid request out; correct?

23 A. Yes.

24 Q. Okay. And so in developing this staffing
25 plan, GEO is basically working within its understanding

1 in the RFP.

2 Q. Okay. But the contract doesn't specifically
3 require GEO to execute a staffing plan; correct?

4 A. The RFP would have.

5 Q. The request for proposal would have; right?

6 A. And that's part of the contract.

7 Q. Okay. And so but as with the prior contracts,
8 to the extent there is a staffing plan, is that
9 something that GEO would develop consistent with
10 whatever ICE's specifications are?

11 A. Yes.

12 Q. And within the structures of the funding
13 provided by the contract?

14 A. It would have been precontract award.

15 Q. And what do you mean when you say that?

16 A. It would have gone through the RFP proposal,
17 we would have submitted the staffing plan as part of our
18 proposal for the response to the request, and they would
19 either accept it or not accept it and award a contract
20 based on all the elements.

21 Q. Okay. And then if I could just direct your
22 attention to page 31411?

23 A. Yes.

24 Q. Okay. And this is the portion of the contract
25 that describes the Voluntary Work Program; correct?

1 A. Yes.

2 Q. And under item two there, it says detainees
3 will be able to volunteer for work assignments, but
4 otherwise not be required to work except to do personal
5 housekeeping; correct?

6 A. Yes.

7 Q. Okay. And as with the staffing plan, I didn't
8 see a reference here to a Detainee Work Plan. Is it
9 your testimony based on what you've said about the
10 previous contract that the Voluntary Work Plan is the
11 Detainee Work Plan?

12 A. I believe so, yes.

13 Q. So there's not -- the contract doesn't
14 specifically require GEO to identify how many detainee
15 workers will do the laundry, how many will do food
16 service and so forth?

17 A. No.

18 Q. Okay. And GEO has the discretion to figure
19 that out in terms of how best to suit its needs at the
20 facility?

21 A. Well, it has the discretion to go by the
22 Voluntary Work Program, to provide a work program for
23 the detainees, so it's in different areas, and we would
24 identify, you know, who could do the work and provide
25 that service.

1 Q. Okay.

2 MR. BARNACLE: And we'll just state for the
3 record, and I understand this is GEO's production,
4 but pages one through 12 it looks like of section A
5 and B aren't a part of this representation of the
6 contract.

7 MS. TURNER: I'm sorry, which exhibit is that?

8 MR. BARNACLE: If you look at part one and
9 part two --

10 MS. TURNER: Of which exhibit I'm saying.

11 MR. BARNACLE: Sorry. This is the 2011.

12 MS. TURNER: Okay.

13 MR. BARNACLE: Section -- part one, section A,
14 part one, section B, which looks like pages one
15 through 12, are not in this document. It's
16 sequential from --

17 MS. TURNER: The bates number?

18 MR. BARNACLE: -- bates, so it looks like it
19 might not have been produced. Is that what that
20 is?

21 THE WITNESS: This is section A. It's a
22 supply for services. And section B is --

23 MR. BARNACLE: Okay.

24 MS. TURNER: So just for purposes of the
25 record, it's just out of order. The document is

1 complete.

2 MR. BARNACLE: It's out of order.

3 BY MS. TURNER:

4 Q. Okay. So Colin, this is Exhibit 24 from
5 yesterday.

6 Okay. So we've marked Exhibit 14, which is
7 bates numbered GEO-Men1505 through 1509. And on the
8 last page, there's a space for Warden J. Choat to sign
9 it, and it says it's effective August 20th, 2013; is
10 that correct?

11 (Thereupon, the document was marked as
12 Plaintiff's Exhibit 14 for identification.)

13 A. Yes.

14 Q. Okay. And I think earlier, you made reference
15 to a housekeeping plan. Do you recall that testimony?

16 A. I think you may have referenced the
17 housekeeping plan.

18 Q. I don't think so, but okay. We'll --

19 A. I understand what the housekeeping plan is.

20 Q. Are you familiar with this housekeeping and
21 maintenance plan?

22 A. Yes.

23 Q. And what is it?

24 A. It's the housekeeping plan for the facility.

25 Q. Okay. And do you have an understanding of

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CERTIFICATE OF REPORTER

THE STATE OF FLORIDA,
COUNTY OF PALM BEACH.

I, Julie Bruens, Florida Professional Reporter, certify that I was authorized to and did stenographically report the deposition of AMBER MARTIN; pages 1 through 77; that a review of the transcript was requested; and that the transcript is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 4th day of March, 2020.

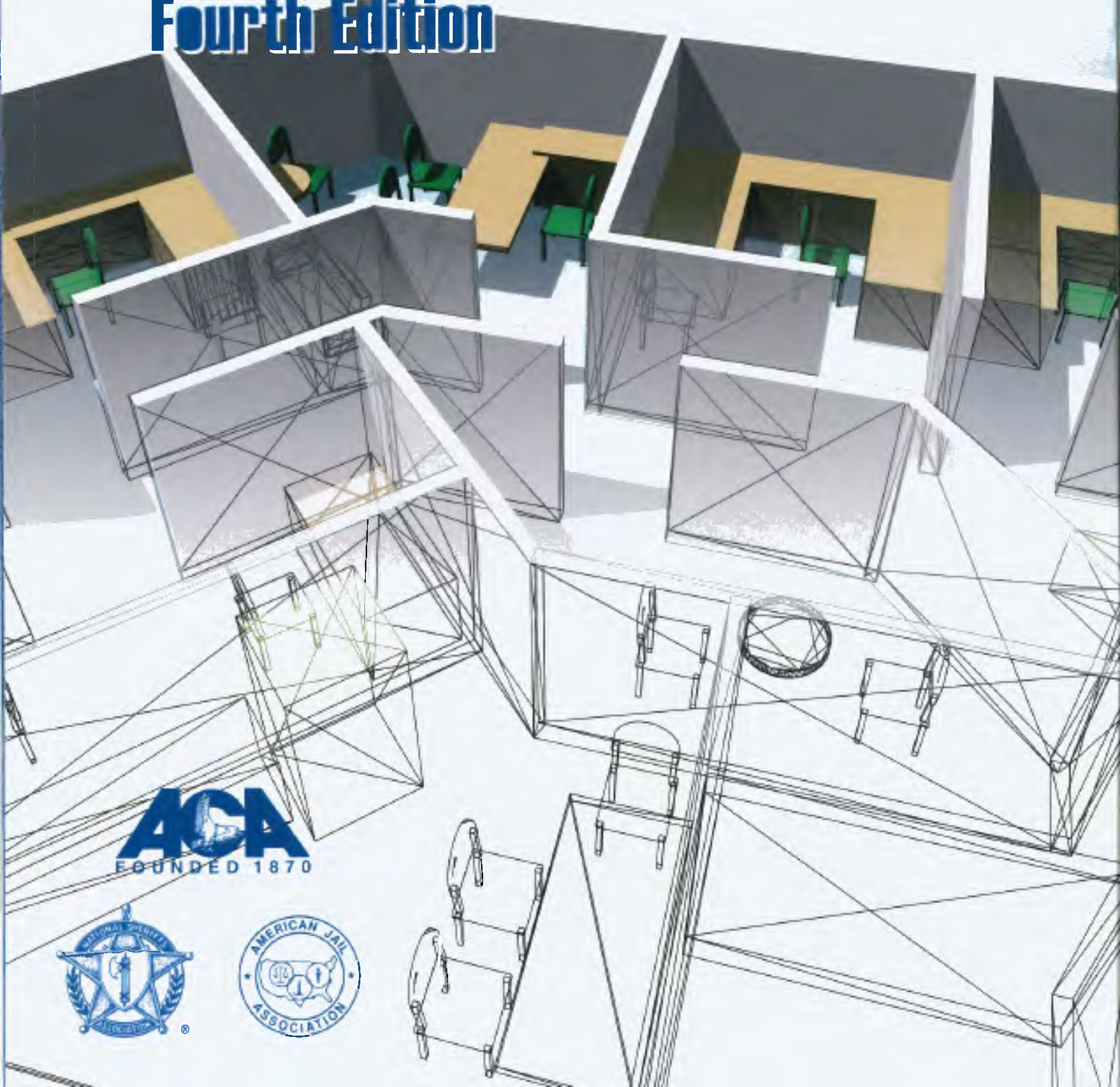


Julie Bruens, FPR
Florida Professional Reporter

Exhibit S

Performance-Based Standards for Adult Local Detention Facilities

Fourth Edition



**PERFORMANCE-BASED
STANDARDS
FOR
ADULT LOCAL
DETENTION FACILITIES**

Fourth Edition

American Correctional Association

**in cooperation with the
Commission on Accreditation for Corrections**

June 2004

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Comment: None.

Protocols: Written policy and procedure. Work plan and schedule. Inmate training materials.

Process Indicators: Observation. Inmate interviews. Documentation of work performed.

4-ALDF-5C-07

(Ref. 3-ALDF-5A-02) The facility requires all sentenced inmates to work if they are not assigned to programs.

Comment: None.

Protocols: Written policy and procedure. Inmate rules/handbook. Applicable statutes.

Process Indicators: None.

4-ALDF-5C-08

(Ref. 3-ALDF-5A-05) Pretrial and unsentenced inmates are not required to work except to do personal housekeeping and to clean their housing area. Inmates are allowed to volunteer for work assignments.

Comment: None.

Protocols: Written policy and procedure. Inmate rules/handbook.

Process Indicators: Documentation of inmate opportunities to volunteer for work assignments.

4-ALDF-5C-09

(Ref. 3-ALDF-5A-06, 5A-09, 5A-10)

Where statute permits, inmates are assigned to public works and community service projects.

Comment: None.

Protocols: Written policy and procedure. Applicable laws and regulations.

Process Indicators: Program records.

4-ALDF-5C-10

(Ref. 3-ALDF-5A-12) The inmate workday approximates the workday in the community. Inmate performance is regularly evaluated and recorded. Inmates receive written recognition of competencies that they acquire.

Comment: None.

Protocols: Written policy and procedure. Work schedule. Competency measurement and recognition materials.

Process Indicators: Work records. Facility logs and records. Inmate records. Inmate interviews. Documentation of competency recognition.

4-ALDF-5C-11

(Ref. 3-ALDF-5A-13) (MANDATORY) Inmate working conditions comply with all applicable federal, state, or local work safety laws and regulations.

Comment: None.

Exhibit T

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:14-cv-02887-JLK

DEPOSITION OF: CHERYL R. NELSON - October 3, 2019

ALEJANDRO MENOCA, et al.,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

PURSUANT TO NOTICE, the deposition of
CHERYL R. NELSON was taken on behalf of the Plaintiffs
at 1900 16th Street, Suite 1700, Denver, Colorado
80302, on October 3, 2019, at 9:32 a.m., before Carin
C. Geist, Registered Diplomate Reporter and Notary
Public within Colorado.

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Allison Angel

1 And looking down at B, it looks like there
2 are some of the work -- voluntary work program
3 objectives were deleted and replaced by different
4 objectives, and there was a paragraph deleted from the
5 Required Work Assignments section.

6 So is this -- these were facility-level
7 changes made to parts of the corporate policy that
8 could be changed at the facility level? Am I
9 understanding that correctly?

10 A. Is this a draft or is this an executed
11 policy? Was this signed by ICE? I know all changes to
12 policies have to be approved by ICE.

13 Q. Okay. Well, I am asking you that. Do you
14 know what this document is?

15 A. Well, I don't see an approved by. It
16 looks like it's superseding recommendations from
17 11/20/11, but I can't speak to whether or not this is
18 an executed document. It looks like someone's working
19 document, definitely.

20 Q. Right. So I'm just -- I'm asking, is it
21 your interpretation that someone from the facility
22 deleted parts of this policy and rewrote other parts of
23 it? That's what it looks like from the red line, and
24 I'm asking if I'm interpreting it correctly.

25 A. I think track changes are a normal part of

1 policy review, and that would be a way to capture
2 someone's recommendations. But the final product would
3 really be revealing in terms of who approved it. Did
4 the policy get approved, or were these just
5 recommendations? In its current form, I don't know.
6 I'm sorry.

7 Q. Right, okay. And do you know who would
8 have made these edits to this policy?

9 A. No, not without knowing who were on the
10 committee or who authored it.

11 Q. Okay. It says -- so under Required Work
12 Assignments, it says, "Detainees are required to
13 maintain their immediate living areas in a neat and
14 orderly manner." And then it says Lieutenant Labatto
15 next to it. Does that indicate that Lieutenant Labatto
16 wrote that part of the policy?

17 A. I'm not sure.

18 Q. Okay. And so once this policy -- this
19 shows the policy with track changes. Once all of the
20 track changes have been accepted, would it go to the
21 warden for approval?

22 A. The warden has to sign all -- if he
23 approves the changes, he signs the policy; and then the
24 final approval of all policies, whether ICE or local
25 operating procedures, are approved by ICE.

1 Q. And by ICE, do you mean the COTR?

2 A. Correct.

3 Q. Okay. And do you know if the policy goes
4 back to, say, GEO corporate for review?

5 A. It just depends on what the policy is. I
6 mean, I don't know that this would be one that we would
7 be looking at for our review.

8 Q. Okay. So there's not necessarily any
9 requirement that they go back to GEO's corporate for
10 review?

11 A. Well, no.

12 Q. Okay.

13 A. We have -- we review our emergency
14 procedures. There are certain policies that we
15 actively have to look at and that we approve before
16 they can be forwarded to ICE. Otherwise, the
17 discretion, again, is the autonomy of the facility
18 administrator to run the day-to-day operations in
19 concert with the on-site client.

20 But at the end of the day, the policy has
21 to be approved by ICE, and they will approve it or not.
22 If there's something that's in it that's a violation of
23 the standard, they're going to kick it back and not
24 approve it.

25 Q. And do you know what the review process is

1 within ICE?

2 A. I do not.

3 Q. The COTR signs off on it. Do you know if
4 it goes above the COTR or anything like that?

5 A. I don't know their process associated with
6 policies. I only know our requirement, and our
7 requirement is completed in accordance with the
8 guidelines.

9 Q. And when you say, "the guidelines," what
10 guidelines, specifically?

11 A. As it relates to ICE approving all
12 policies before they're implemented --

13 Q. Okay.

14 A. -- to include annual reviews or
15 adjustments or changes to anything in the policy. They
16 have to approve it and verify that we're in compliance
17 with the intent of the contract requirements.

18 Q. Okay.

19 (Deposition Exhibit 10 was marked.)

20 Q. So this is Exhibit 10. It's Bates-stamped
21 GEO-MEN 00071642, and you can take your time to get
22 familiar with the document. It's an e-mail. The
23 attachments we're not going to be talking about.

24 (Deponent reviewed the document.)

25 Q. Do you recognize this e-mail?

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REPORTER'S CERTIFICATE

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

I, CARIN C. GEIST, Registered Diplomate Reporter, Certified Realtime Reporter, and Notary Public ID 20054034523, State of Colorado, do hereby certify that previous to the commencement of the examination, the said CHERYL R. NELSON was duly sworn or affirmed by me to testify to the truth in relation to the matters in controversy between the parties hereto; that the said deposition was taken in machine shorthand by me at the time and place aforesaid and was thereafter reduced to typewritten form; that the foregoing is a true transcript of the questions asked, testimony given, and proceedings had.

I further certify that I am not employed by, related to, nor of counsel for any of the parties herein, nor otherwise interested in the outcome of this litigation.

IN WITNESS WHEREOF, I have affixed my signature this 16th day of October, 2019.

My commission expires September 15, 2021.

 X Reading and Signing was requested.

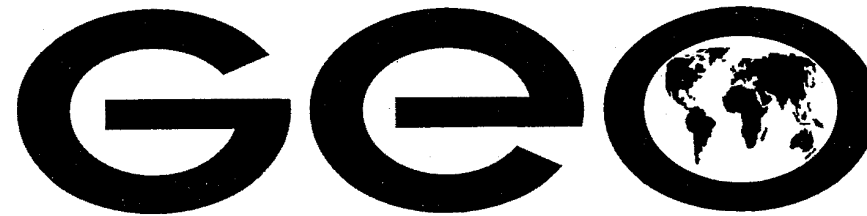
 Reading and Signing was waived.

 Reading and Signing is not required.

Carin C. Geist

Carin C. Geist
Registered Diplomate Reporter
Certified Realtime Reporter

Exhibit W



The GEO Group, Inc.

AURORA ICE
PROCESSING CENTER

DETAINEE HANDBOOK
LOCAL SUPPLEMENT

Revised October 2013

Number: _____

PL000029

PL000030

ICE Detainee Handbook

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INTRODUCTION/MISSION

The Aurora Detention Center is a private detention facility operating under a contract with the United States Immigration and Customs Enforcement. (I.C.E). the mission of this facility is to provide a safe, clean, and sanitary environment for detainees waiting processing of their administrative hearings and the staff who work here.

This supplement, with rules and regulations contained herein, is adopted and enacted by the Aurora Detention Center Administration pursuant to written guidelines, laws, rules and regulations. **Please read it carefully.** If you have any questions concerning any aspect of this handbook, please contact a staff member for clarification.

The purpose of this supplement is to explain the specific rules, regulations, policies and procedures that must be followed by detainees while in custody at this facility. The supplement will also help provide you with a general overview of the programs, rules, regulations, and services of the facility. You will be held accountable for your actions while in custody at this facility. Therefore, it is each detainee’s responsibility to become familiar with the contents of this supplement.

A copy of this supplement will be issued to each detainee upon intake, and certain sections are posted on the bulletin boards in each housing unit. All detainees are required to acknowledge, by signature, receipt of this supplement.

The information contained in this supplement applies to all detainees and is intended to ensure your safety and the safety of staff, decent living conditions, fair treatment, and the protection of your rights. It is the policy of this facility that no individual be discriminated against because of age, sex, sexual orientation, race, color, creed, religion, physical challenges (handicap), National origin or political beliefs.

The detention staff is charged with the responsibility of maintaining your safety and security, to provide an appropriate professional response to your needs and to maintain the safe and orderly running of the facility. The staff/detainee relationship is very important to everyone’s well being, and each detainee has an important role in maintaining and improving this relationship.

FACILITY ADDRESS, TELEPHONE NUMBER & DIRECTIONS

**AURORA DETENTION CENTER
3130 N. OAKLAND STREET
AURORA, COLORADO 80010-1525
303-361-6612 or 303-739-8700**

**ICE/ERO
3130 N. OAKLAND STREET
AURORA, COLORADO 80010-1525**

DIRECTIONS:

The Aurora Detention Center is located 1.1 miles south of I-70 and 1.4 miles north of Colfax Avenue.

Exit I-70 onto Peoria Street, south, go approximately 1.1 miles to East 30th Avenue, turn right (west) on 30th Avenue and proceed approximately 1 block. Turn right onto North Oakland Street. The facility will be on the right side of the street. Parking for visitors (i.e. family or friends) is available on 30th Avenue or N. Oakland Avenue.

If traveling north on Peoria Street, go to East 30th Avenue, turn left (west), and go approximately 1 block. The distance from Colfax and Peoria streets is approximately 1.4 miles.

It is imperative that you notify your family, friends or anyone who might visit, provide you money or want to leave a telephone number message, of your name and A-number. GEO staff is not responsible for any form of miscommunication resulting from an incomplete detainee’s name or inaccurate A-number. GEO staff cannot provide you’re A# over the telephone to those that request it.

RIGHTS AND RESPONSIBILITIES

You have the right to expect that as a human being all personnel will treat you respectfully, impartially, fairly, and humanely.

You have the right to participate in educational classes, vocational training, and work as far as resources are available and in keeping with your interests, needs, custody status, physical and mental health condition and abilities.

You have the responsibility to take advantage of activities that may help you live a successful and law-abiding life here in this facility, as well as when you return to the community. You will be expected to follow the regulations governing these activities.

You have the right to be informed of the rules, regulations, procedures and schedules of the facility that affect you.

You have a responsibility to know and abide by the rules, regulations, procedures and schedules of the facility.

You have the responsibility to treat others, both employees and detainees, in the same manner.

You have the right to freedom of religious affiliations and voluntary religious worship.

You have the responsibility to recognize and respect the voluntary rights of others in this regard.

You have the right to health care which includes nutritious meals, proper bedding and clothing, a laundry schedule for clean bedding and clothing, an opportunity to shower regularly, proper ventilation for warmth and fresh air, a regular exercise period, toilet articles, and medical and dental treatment.

You have the responsibility to not waste food, follow laundry and shower schedules, maintain neat and clean living quarters, keep your area free of contraband, and seek medical and dental care as you need it.

You have the right to unrestricted and confidential access to courts by correspondence.

You have the responsibility to present honestly and fairly your petitions, questions, and problems to the courts.

You have the right to legal counsel from an attorney of your choice by means of interviews and correspondence at no cost to the United States Government.

It is your responsibility to obtain and use services of an attorney honestly and fairly.

You have the privilege to have family and friends visit with you in keeping with the facility rules and regulations.

It is your responsibility to conduct yourself properly during visits, not to accept or pass contraband, and not violate federal, state or local laws or the policies of the Aurora Detention Center.

You have the right to reading material for educational purposes and for your own enjoyment.

It is your responsibility to seek out and use materials for your benefit, without depriving others of the same benefit.

You have the right to use the law library reference materials to help you resolve legal problems. You also have the right to receive help when it is available through a legal assistance program.

It is your responsibility to use these resources according to the prescribed procedures and schedules, and to respect the rights of others to use the materials.

You have the right to an administrative hearing before an Immigration Judge to determine your status in the United States.

You have the responsibility to seek methods of payments for your bond.

You have the right to apply for political asylum if you believe that you will be persecuted because of your race, religion, nationality, membership in a social group or political opinion.

You have the responsibility to prepare and submit the proper form accurately.

You have the right to receive as correspondence any material reasonably necessary to present your legal claim.

You have the responsibility to request from the Library Officer all special mailing envelopes.

You have the responsibility to prepare all special mailing envelopes accurately and keeping all tracking numbers and receipts.

You have the responsibility to inform persons dropping off legal material for use in your legal claim of procedures and hours.

You have the right to request voluntary departure, if statutorily eligible, prior to a hearing but if you request voluntary departure you waive the right to a hearing.

It is your responsibility to inform an Immigration Officer that you request voluntary departure.

You have the privilege of communication. You can communicate with the consulate or diplomatic officers of the country of your nationality in the United States.

You shall not be harassed, disciplined, punished, or otherwise retaliated against for filing a complaint or grievance.

SECTION 1 - INITIAL ADMISSION

PHONE CALLS DURING BOOKING

Upon your arrival at the facility, while in intake, you will be issued a pin # card and will receive a free 3 minute phone call. You will have 72 hours in which to use the free 3 minutes. When you speak with family, friends and attorneys please advise them of your 'A' number and location (Aurora) as this will make it easier for them to locate you.

BOOKING

You are required to answer questions designed to identify individual characteristics and to aid the facility staff in your proper classification into the institution during the booking process. In addition, you will be photographed. Other information pertaining to you may also be gathered during the booking process.

You will be screened for medical problems. It is important that you answer all questions truthfully and accurately.

During the screening process, you may sign a "Consent to Refuse Medical Treatment." as you have the right to refuse medical treatment at any time.

You will be informed of the procedure to follow in order to obtain subsequent medical attention. If you have a medical problem and do not know what the procedure is, ask a detention officer or other staff member.

CLASSIFICATION

Classification Information

Staff shall use the most reliable, objective information during the classification process. "Objective" information refers to facts, i.e., current offense, past offenses, escapes, institutional disciplinary history, violent episodes/incidents, medical information or a history of victimization, etc.

Classification Levels and Housing Assignments

You will be housed according to your classification level.

Classification Levels

- a. Low Custody – may include detainees with minor criminal records and nonviolent felonies
- b. Medium Custody – includes detainees with criminal records violent felonies
- c. High Custody – includes detainees with serious offense history, escape history, pattern of assaults and/or serious institutional disciplinary convictions

Reclassification

You may be reclassified any time and the classification level re-determined. The first re-assessment is completed 60 to 90 days after the date of the initial assessment. Subsequent reclassification assessments shall be completed at 90-120 day intervals. A special reassessment is completed within 24 hours before a detainee leaves disciplinary segregation and at any other time when additional relevant information becomes known. The officer assigned to classification will respond to requests for reclassification within 72 hours. A Kite for reclassification consideration needs to be addressed to the Classification Officer.

Any detainee may be reclassified to High if the behavior and threat to the facility, other detainees, and personnel is articulated.

Detainees classified at Medium who exhibit acceptable institutional behavior *may be* reviewed and reclassified to Low. (Detainee must be in custody for a minimum of 60 days before reclassification.)

Classification Appeal

All new arrivals classified as level two or three may appeal their classification decision through the detainee grievance system. All such appeals will be directed to, investigated, and reconsidered by Classification.

HOUSING AND UNIFORMS

You will be placed in living quarters based upon your present classification. Female detainees will be detained in a housing unit separate from males.

Housing units for females are dormitory style which provides separate areas for sleeping, activities, restrooms, and showers. Housing units for males are cells that house four or eight detainees with a sink and toilet inside each cell. A separate area for showering and activities is available in each unit.

Following the booking process, you will be issued clothing consisting of 2 uniforms, 5 pair of undergarments, 1 gym shirt, 1 pair of shorts, 1 pair of shower shoes, tennis shoes, two sheets, 1 pillow case, 1 blanket, 1 towel, 1 toothbrush, toothpaste, soap, hand lotion, comb, and headphones for the televisions. Long sleeve shirts will be provided from October to April.

Female detainees will be provided 3 bras, and necessary feminine hygiene items in addition to the above. It is your responsibility to wear the uniform as directed by staff, which includes wearing a Wristband.

The classification process determines the appropriate level of custody for each detainee. Once this is established, staff can issue the detainee clothing and wristband in the appropriate color for his or her classification period.

- Dark Red - High Custody
- Bright Orange - Medium Custody
- Dark Blue - Low Custody

AURORA DETENTION CENTER - ID

All detainees will be issued a facility Identification Wristband. "The wristband must remain on his or her wrist until removed by an officer, and that disregarding this requirement could lead to disciplinary action" Your Identification Wristband provides you access to certain services, i.e., commissary, library, medical services. *If you lose, damage or destroy your Identification Wristband it is your responsibility to contact a housing unit officer and notify them that you need a replacement. You may be required to pay for the replacement of your Identification Wristband.*

PROPERTY YOU MAY TAKE TO THE HOUSING UNIT

The following is a list of property that you may take into the housing unit:

- Legal documents and papers, including property receipts
- Family pictures (not to exceed 10) measuring 5"x7" or smaller
- 1 pair of prescription glasses – regular (no sunglasses)
- Dentures – upper, lower or both plates
- Personal address book or pages
- Wedding band – plain, no stones
- Religious and secular reading material (softbound)
- Small religious item, i.e. religious medallion
- Materials authorized in writing by the Chief of Security

PERSONAL PROPERTY STORAGE

To protect the property of all detainees, you are not permitted access to your stored personal property except when your requests have been approved by the Intake Officer to obtain legal paper work only. You may have access to pictures, cards, papers, or other items approved by staff out of your wallet or purse, during the admission process, while in the Intake area; however, once you sign surrendering your property to the property section, you lose this option.

No alcoholic beverages, tobacco products or perishable food items will be stored or permitted in this facility. For safety reasons, matches, cigarette lighters, tobacco products and other disposable safety hazards will not be stored in this facility. Such items will be disposed of after you are placed into the facility population.

All detainee requests for property must be pre-approved by ICE. The ICE pre-approved clothing requests may be brought to the facility for detainees but the combined total weight of what you already have in intake property storage and what is being brought/sent in cannot exceed 40 lbs. The 40 lbs. is the maximum amount of weight a detainee can have of property and clothing. All property must fit in the 14"x 14" x 19" size property box or equivalent size suit case but nothing larger. The property being dropped off for detainees should be clothing only. No valuables allowed, i.e. no jewelry, computers, cell phones, etc. We encourage family and friends to bring the property already boxed up, but not sealed, so it can be inspected and inventoried before it's accepted, although clothing may be mailed in as well. Detainee visitors may bring authorized property on Sunday, Monday, Tuesday and Thursday's from 09:00 a.m. to 7:00 p.m. All property must have prior approval from ICE and the front lobby officer must have the authorization via kite before accepting any property. This is a one-time request only.

MONEY/PROPERTY RELEASE

You may release all of your property, including your keys and/or money to someone in the community that you designate in writing. To release your property, a **Property Release Form** must be filled out and signed by you. A Property Release Form may be obtained upon request from the housing unit officer assigned to your housing unit.

The person receiving your property must provide the following information: If the person does not have the following information, your property will not be released to them. **It is your responsibility to advise the party picking up your property that this information is required.**

- Name
- Address
- Date of Birth
- Official/Valid Picture ID or verifiable identification

RELEASE OF FUNDS FOR OUTSIDE PURCHASES, FEES, AND OTHER SERVICES

Detainees will use a Property Release Form in conjunction with a Detainee Request Form to request detainee withdrawals from their account. The detainee accounts clerk or designee will review the request for proper approval and completeness also verifying the detainee name and A number issued. The release form must be signed by the detainee and the housing unit officer.

PROPERTY LEFT UPON DISCHARGE/TRANSFER

You are required to either take your property with you or make prior arrangements for transfer or disposal of it when you discharge from this facility.

If you leave property, a written notice will be sent certified mail to the last known address you provided, notifying you that your property has been considered abandoned and that you have 30 days to make arrangements to contact Immigration and Customs Enforcement to claim your property. If there is no claim, the property will be vested in the U.S. Government and Immigration and Customs Enforcement shall direct its disposal.

ITEMS LEFT FOR DETAINEES

The only items that may be brought to the facility for you are:

- ICE pre-approved clothing request (40 lbs. total) only in the event of deportation
- Money for detainees will only be accepted Monday-Friday from 1:30-2:30 p.m.
- Legal documents may be left for detainees, staff will inspect the documents for contraband but will not read the documents.

Money that is received at this facility will be credited to your account. If someone leaves money for you at the facility, a receipt will be written and a copy given to you. **No personal checks will be accepted at the facility.**

Deposits on your account must be in the form of U.S. currency, Postal or Western Union money orders, cashier's checks, or checks payable to you from a local, State or Federal agency.

RETURN OF YOUR MONEY

Upon discharge or transfer from this facility, all money remaining on your account will be returned to you.

NOTE: If the facility is unable to return your property to you due to loss, theft, or misplacement, and for which you have a legitimate property receipt, the facility staff will reimburse you for the missing personal property, money and/or valuables. In the event this situation occurs, you must fill out a Property Claim Form and provide a copy of your receipt(s) with the form.

PROCEDURES FOR FILING A CLAIM FOR LOST OR DAMAGED PROPERTY

If property is missing or damaged a Property Claim Form or I-387 will be provided to the detainee and will be thoroughly investigated. A detainee being transferred, released, or removed from the country with a property claim shall be allowed to initiate the claim before leaving the facility. The facility administrator shall forward the result of the claim to the claimant's forwarding address (provided upon admission or in conjunction with the claim).

MONEY TRANSACTIONS

There will be no financial transaction between detainees unless approved by the Warden. You must be a verified relative or spouse in order to be considered for a transfer of money between detainees. If you meet the criteria, you must submit a written request to the Warden that provides sufficient information (reason for the request and supporting information).

You are not allowed to have any money in your possession while in the facility i.e. cash, coins, checks or money orders.

ORIENTATION VIDEO

The facility will show you an orientation video in the Intake area during your initial processing.

PRO BONO IMMIGRATION LAW VIDEO

You will be shown a legal video provided by the American Immigration Lawyers Association during your initial processing. In addition, you may request these immigration law materials anytime in the future, by using the packet request form available to you in the housing unit or Law Library. The list of detainees who will view the Pro Bono presentation is compiled by the court. If you want to be placed on the list, submit a detainee request to the Programs Coordinator.

A list of Pro Bono legal services is located on the bulletin board and the Talton Communication poster in the housing unit.

DETAINEE WORK PROGRAM (VOLUNTARY)

The center utilizes detainees to perform such functions as painting, food services, laundry services, barbershop and sanitation.

All work is done on a voluntary basis, except that work which is customarily required for cleaning your living area.

The Classification Officer selects and assigns workers to job vacancies. Your classification level, criminal history, escape history and medical status will be used to determine if you are eligible to work and if eligible, the type of work assignment for which you are eligible.

You may be removed from a work detail for such causes as:

- Disruptive behavior, threats to security, etc.
- Unsatisfactory job performance
- Infraction of a facility rule, regulation or policy, leading to removal from a work detail as a sanction imposed by a disciplinary proceeding through the Institutional Disciplinary Panel (IDP) or Unit Disciplinary Committee (UDC)
- Physical inability to perform all functions required by the job, whether because of a lack of strength or a medical condition.
- You may be removed from a work detail to prevent future injuries.

You will receive an orientation to your job assignment by your job supervisor. You will be asked to sign a statement that you have received the orientation and that you understand the job requirements. If you refuse to sign the statement, you will be removed from the job assignment.

If you are injured on your job assignment, you are to immediately report the injury to your detail supervisor.

Depending on the jobs, you are required to wear the proper uniform and/or safety related equipment as told to you by your supervisor.

DETAINEE DRESS CODE

You are required to have your full uniform on whenever you are outside your housing unit when going to court, visitation, and church services etc, except to recreation at which time a t-shirt and shorts will be allowed. When you are inside the housing unit, you are also required to put on your t-shirt, pants or shorts and shoes in the dayroom area.

SECTION II

ACCESS TO COURT AND LAW LIBRARY

IMMIGRATION LAW LIBRARY MATERIAL

The law library is available for detainee use. If you would like to go to the law library fill out a detainee request form (kite).

In addition to the computers, detainee handbooks, law dictionaries, legal research guides and writing materials are also available. The computers are for legal work only.

LOCATION AND HOURS OF ACCESS

The law library is located in the North West hall way of the facility.

The facility law library can be accessed Monday – Friday from 7:30am – 10 pm with the exception of count times and religious services. This will enable all detainees regardless of housing or classification to utilize the law library on a regular basis. When requested and where resources permit, you shall be provided with meaningful access to the Law Library, legal materials and related materials on a regular schedule with no less than 15 hours per week.

You will not be required to lose your recreation time in order to use the law library.

REPLACING DAMAGED MATERIALS

A list of law library holdings is posted in the library. The Law Library Officer is responsible for the law library and will inspect the law library documents at least weekly for missing or damaged materials. You are encouraged to report missing or damaged materials. Damaged or missing materials will be promptly ordered and replaced.

SUPERVISION

The library staff will monitor your use of legal materials to prevent misuse, damage or destroying of legal materials and/or equipment. You are not permitted to mutilate or destroy legal materials, equipment or to remove legal material or supplies from the law library.

UPDATING LEGAL MATERIALS

This facility provides detainees with access to law materials using Lexis-Nexis, a web-based research database that provides up-to-date access to legal materials in electronic format.

This facility subscribes to a law library updating service. Out-of-date materials will be disposed of when replaced by new material. Immigration and Customs Enforcement will add information on significant statutory and regulatory changes regarding detention and deportation of aliens in a timely manner, and will provide initial copies to the facility.

REQUEST FOR ADDITIONAL LEGAL MATERIALS

If you require additional legal material(s) not available in the facility, you need to make a request in writing to the Program Coordinator. Requests for copies of court decisions will normally be available within three (3) business days. If you are making unnecessary requests for material not contained in the law library, the Administration will consult with Immigration and Customs Enforcement staff to determine appropriate action.

PHOTOCOPYING OF LEGAL DOCUMENTS

You can obtain photocopies of legal materials when such copies are reasonable and necessary for a legal proceeding. You need to request these copies using a "kite" and state the number of copies you need.

- The number of copies made of documents to be filed with a particular court, combined by the number required for Immigration and Customs Enforcement

records and at least one copy for your personal use will determine the number of photocopies required.

ILLITERATE AND NON-ENGLISH SPEAKING DETAINEES

Unrepresented illiterate and non-English speaking detainees who wish to pursue a legal claim related to their immigration proceedings or their detention will be provided with access to a set of English language law books and Language Line Service for limited English proficient detainees. Assistance will be provided as follows:

- Detainees will be assisted in the use of the law library and the drafting of legal documents from other detainees who have appropriate language and reading/writing abilities.
- Assistance in contacting *pro bono* legal-assistance organizations from the Immigration and Customs Enforcement-provided list. *The Pro Bono list is posted on the bulletin boards in all housing units.*

DETAINEE RETENTION OF PERSONAL LEGAL MATERIALS

Detainees are permitted to retain all legal materials in both general population and Segregation/SMU provided such material does not create a safety, security or sanitation hazard. Detainees with excess legal material will be required to place such material in personal property storage. If you wish to access the excess legal material, you must provide a request to the Chief of Security for the specific material you need to access. Your request will be answered within 24 hours after the request is made, during designated hours, unless documented security concerns preclude action within this time frame.

Detainees are allowed to utilize an electronic storage device provided by the library to save their legal documents. It will be kept in a locked cabinet in the library and they are not allowed in the housing unit, but will be transferred to a disk given to the detainee upon his or her departure from facility. At no time should information be saved on the library hard drive of the computers. On a daily basis, all computers are checked and cleared of any information not authorized at the closing of the library. No electronic devices will be accepted through the lobby and detainees are not allowed to have personal thumb drives or any other external media in their possession or brought in or mailed in.

LAW LIBRARY ACCESS FOR SEGREGATION/SPECIAL MANAGEMENT UNIT

Law library access for detainees housed in SEG/SMU is provided as follows:

- SMU - Detainees housed in Administrative Segregation have the same law library access as the general population, consistent with security. Detainees segregated for protection may be required to use the law library separately from other detainees, or where feasible, have legal material brought to them. The level of law library supervision provided will be based on an individual's behavior, attitude, custody level, separation needs or other security concerns.
- Disciplinary Segregation - Detainees housed in disciplinary segregation will be afforded the same legal access as the general population, unless security concerns require limitations. Access will be provided upon request. Violent and/or uncooperative detainees will be temporarily denied access to the law library to maintain security, until such time as their behavior and attitude warrants resumed

access. In some circumstances, where feasible, legal material may be brought to individuals in disciplinary segregation.

ATTORNEY VISITATION

Legal assistants may meet with you during legal visitation hours provided that they produce a letter of authorization from the legal representative under whose supervision they are working. The letter must state that the named legal assistant is working on behalf of the supervising legal representative. Pre-approved interpreters may accompany legal representatives and legal assistants on visits.

Legal materials (limited to hard copy documents, no electronic media) may be provided to you during a legal visit. Staff will inspect the material for contraband, but will not read the material.

Legal visits authorized hours are from 8am to 9 pm, seven days per week.

REQUESTS FOR INFORMATION FROM IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE COURT

If you wish to contact Immigration and Customs Enforcement or court, you will need to submit a completed Detainee Request Form (kite) to request a service or information from the Immigration and Customs Enforcement. Each kite requires your name, "A" number, housing unit, the date and your signature. Print clearly on the Kite and submit one Kite for each request. Questions about Court or for Immigration and Customs Enforcement should be addressed to Immigration and Customs Enforcement, and/or Court, whichever is applicable, on the Kite. Place the kite in the mailbox labeled "ICE".

LEGAL COMMUNICATION

Mail service, attorney visitation and telephone calls are the primary means of access to legal representation and the courts. Interpretive services for essential communication to GEO, ICE and Courts will be provided upon request by submitting a Detainee Request Form (Kite).

Legal documents will be accepted seven days a week during the hours of 1pm and 5pm.

RETALIATION PROHIBITED

You have the right to present to the Court any legal issue regarding your immigration proceedings, basis for your detention, or the conditions of your confinement.

You will not be subjected to reprisals or penalties because of a decision to seek judicial relief on any matter, including the legality of your confinement; the legality of conditions or treatment while under detention or an issue relating to your immigration proceedings; or an allegation that the government is denying you rights protected by law.

NOTARY PUBLIC

A notary public is on-site for your assistance. If you need a document notarized, submit a Detainee Request Form (kite) to your housing unit officer. There is no charge for this service. Documents to be notarized are limited to commercial or household related matters only. The facility has several notary publics in the facility who are available to assist you.

ENVELOPES AND STAMPS FOR LEGAL DOCUMENTS

If you are indigent, you may request envelopes from the officer assigned to your housing unit. You may request stamps by submitting a Detainee Request Form (kite), along with the addressed, sealed envelopes to the Library/Mail Officer.

SECTION III

CORRESPONDENCE (MAIL), VISITATION, TELEPHONE ACCESS/CORRESPONDENCE (MAIL)

Mail can be sent to you at this address:

You're Name
You're A Number
Aurora Detention Center
3130 N. Oakland Street Aurora, Colorado 80010

Advise your correspondents to also address any special delivery, FedEx, UPS packets in this manner. If not, there is a possibility that the mail could be returned due to a lack of a sufficient address or detainee information.

SPECIAL CORRESPONDENCE

Special correspondence is defined as correspondence sent to or received from private attorneys and legal representatives, government attorneys, judges, courts, embassies and consulates, the President and Vice President of the U.S., members of the U.S. Congress, the U.S. Department of Justice (including the Immigration and Customs Enforcement and the Office of the Inspector General), the U.S. Public Health Service, administrators of grievance systems, and representatives of the news media. Correspondence will be treated as special only: if the sender-for incoming correspondence or the addressee - for outgoing correspondence - the title and office are CLEARLY identified on the envelope and the correspondence is labeled "Special". It is your responsibility to inform senders of special mail of this LABELING REQUIREMENT.

Packages may not be sent or received without advance arrangement approved by the Warden or designee. You must submit a Detainee Request Form (kite) for approval to the Chief of Security.

Postage stamps may be purchased through the commissary.

If you need writing implements, paper and/or envelopes, you may request these materials from the officer assigned to your housing unit.

INDIGENT DETAINEES

If you are indigent (\$15.00 or less consistently on your account for a period of seven (7) days or more), you will be permitted to mail the following:

1. An unlimited amount of special correspondence or legal mail within reason.
2. Three (3) pieces for general correspondence upon request

Indigent postage in all cases is generally limited to letters of *one ounce or less*, but exceptions may be made for special correspondence and may be made in compelling circumstances for general correspondence and other mail. You must submit a "kite" with the correspondence you are sending.

INCOMING MAIL

NON- LEGAL MAIL

All incoming mail will be opened, inspected and/or read for contraband, if necessary, in your presence by staff. Non-legal mail will be read when the facility personnel have reason to believe that said mail might present a threat to the facility's secure or orderly operation, endanger the recipient or the public or might facilitate criminal activity, such as containing information related to an escape attempt or other illegal activity. If, for any reason, your correspondence is withheld, you shall be informed in writing of the reason such action has been necessary. Incoming mail will be distributed on the day it is delivered by the postal service. Packages will be inventoried and inspected within 48 hours of delivery.

LEGAL MAIL

Incoming legal mail and special correspondence will be opened and inspected for contraband in your presence by staff unless waived in writing; however, legal mail shall not be read or withheld from you. This is inclusive of letters from the courts, counsel, officials of the confining authority, other government officials, and administrators of grievance systems and members of the Parole Authority. *It is your responsibility to advise the senders, if they are your legal representatives or potential representatives, to clearly mark their mail as "Special or legal" mail on the envelope.*

CHANGE OF ADDRESS

It is your responsibility to notify the postal service of your change of address should you be transferred or released. In most instances, mail received after you leave, will be returned to sender.

LIMITATIONS ON POSSESSION OF PUBLICATIONS

You are limited to the following number of items in your possession at any one time from the leisure library:

- a. Three (3) books – hard/soft cover
- b. Two (2) magazines
- c. One Bible, Koran, or similar religious publications
- d. Other items approved by the Warden or designee

It is your responsibility to have excess material placed into your property storage. Excess items, with the exception of legal papers and personal correspondence, will be confiscated as contraband and will be disposed of as the Warden deems appropriate. Legal papers and personal correspondence will be placed in your locker for safe storage.

Subscriptions to publications, magazines and catalogs are not allowed. The facility subscribes to certain magazines that are available to you in the leisure library. Books must be requested in advance via a "Request to Receive a Package or Property" form. The title(s) of the book(s) must appear on the "Request" form. Books must come directly from the publisher or an authorized bookstore / outlet.

OUTGOING MAIL

All outgoing mail must be placed into ENVELOPES, SEALED, with the proper postage affixed, and placed in the designated mailboxes. All mail picked up by 9:00 a.m. will be sent out the same day. If for any reason your outgoing mail is not sent, you will be informed and the reason why it was not sent will be provided to you. There is no limit on the number of letters you may send out.

All outgoing mail must have a return address with your name; you're a number and the complete address of the facility clearly written on the envelope.

~~Outgoing general correspondence and other mail may be inspected or read if:~~

- ~~a. the addressee is another detainee; or~~
- ~~b. There is evidence the item might present a threat to the facility's secure or orderly operation, endanger the recipient or the public or facilitate criminal activity.~~

VISITATION

~~Visits are 60 minutes in length and done by unit. Visitors must have valid and verifiable identification – a government issued photo identification card. A responsible adult must accompany anyone under 18 years of age.~~

Visiting is as follows:

Legal/Religious visits - authorized hours are from 8am to 9pm, seven days per week. (Both shall provide proof of endorsement by the appropriate certifying body)

	Monday Lunes	Tuesday Martes	Wednesday Miércoles	Thursday Miércoles	Friday Viernes	Saturday Sábado	Sunday Domingo
A Units	None	0700-1300	None	None	0700-1300	0700-1300	None
B1&2 Units	0700-1300	None	None	0700-1300	None	None	0700-1300
B3&4 Units	None	1500-2100	None	1500-2100	None	None	1500-2100
D Unit	1500-1800	None	1500-1800	None	None	1800-2200	None
SHU	None	None	0700-0900	None	1330-1530	1330-1530	None

A detainee can only have one social visit per day, for example if a detainee has a visit in the early evening, he/she cannot have another visit, later in the evening on that same visiting day.

VISITING BETWEEN DETAINEES

All visits between persons detained must have prior approval of both the Warden and the Immigration and Customs Enforcement staff. You must submit a "Kite" to the Immigration and Customs Enforcement staff, requesting visitation and provide supporting documentation of your relationship with the person for which the visiting has been requested. Immigration and Customs Enforcement will confer with the Warden and you will be advised of the decision in a reasonable period of time.

VISITING RESTRICTIONS

- All social visits are Non-contact visits.
- If your visitors appear to be under the influence of alcohol/drugs, the Shift Supervisor will be notified and the visit will be terminated.
- A maximum of 2 visitors at a time (small children not included).
- All visitors are subject to search.
- Visitors are not allowed to pass or attempt to pass any item to you.
- Children must be under control at all times.
- Visitors are not allowed to chew gum in the facility.
- Visitors are not allowed to carry any items into the visiting area.
- If contraband is found on your visitors, such as drugs, alcohol, weapons, they will be subject to prosecution under CRS-18-8-201 and 18-8-204.
- The Chief of Security must approve additional visitation time.

VISITING RULES

It is your responsibility to advise your visitors to follow the visiting rules and all posted laws, rules, and regulations when they come to visit you. It is also your responsibility to follow all of the visiting rules and regulations.

Female Visitors Age 12 and Older

- Shorts shall cover customarily covered areas of the anatomy, including the buttocks and crotch area, when standing and/or sitting. Shorts no higher than mid-thigh comply. Short-shorts, jogging shorts, cut-offs, and other obviously inappropriate short garments are prohibited.
- Skirts and dresses shall extend to mid-thigh, seated.
- Slits in skirts and dresses shall rise no higher than mid-thigh, seated.
- Sheer (see-through) clothing is prohibited.
- The top of clothing shall be no lower than the underarm in front and back, bare midriffs and strapless tops, tube, and swimsuits are prohibited.
- Shoes shall be worn at all times.
- Gang "colors" and other gang displays are prohibited.

Male Visitors Age 12 and Older

- Shorts shall cover customarily covered areas of the anatomy, including the buttocks, and crotch area when standing and/or sitting, Shorts no higher than mid-thigh comply. Short-shorts, jogging shorts, cut-offs, and other obviously inappropriate short garments are prohibited.
- Shirts shall be worn at all times. Muscle shirts, bare midriff shirts and sleeveless shirts are prohibited.
- Shoes shall be worn at all times.
- Gang "colors: and other gang displays are prohibited.

CONTACT VISITS

All requests for contact visits are to be submitted in writing via detainee request form. A contact visit is defined as a 30 minute visit between a detainee and any visitor, including infants and children, where limited physical contact is allowed. Limited contact may include a brief embrace at the beginning, and upon completion of the visit.

CONDUCT DURING VISITATION

- a. All conduct by both detainees and visitors shall be quiet and orderly.
- b. Detainees and visitors shall remain in an upright position.
- c. Detainees will be seated across from all adult visitors without physically touching their adult visitors, but may hold their own children.

The following conduct shall be prohibited:

- Exposure of genitals or breasts;
- Lying on the floor or ground, upon seats or tables or under tables or attempting to conceal the visitor and/or detainee from staff;
- Touching any genital area, breast or buttocks, under or over clothing;
- Use of profanity, making loud noises, disturbing other detainees or visitors, creating a mess or otherwise being a nuisance in the visitation area;

Abuse of these privileges will not be tolerated and immediate suspension of a visit may occur for prolonged hugging and kissing, French kissing, or excessive displays of affection that disrupt the visiting environment. The exposing of, or physical contact with, the clothed or unclothed sexual body parts of a detainee or a visitor will result in an immediate suspension of the visit and may result in denial of future visitation privileges.

Any disorderly conduct, which includes using hostile, vulgar, or profane language, unruly behavior, engaging in activities that disrupt or disturb others, creating loud noises, creating unsanitary conditions and which disrupts the orderly operation of the visiting room or offends others, is not permitted.

Any attempt to circumvent the regulations outlined in policy statement may result in temporary or permanent suspension of visiting privileges or other administrative or legal remedy by the Warden.

Upon completion of the visit, the detainee shall clean the area adequately.

Detainees will not be allowed to exchange any property with any of the visitors. Exchange of property may result in suspension or termination of family visits.

Detainees are not permitted to take any personal items into the contact visitation room other than issued identification card. Legal paperwork is permitted for contact visitation with legal representatives.

Detainees needing to utilize the restroom during a visit will be escorted to the adjacent restroom with a pat-search being conducted prior to and after the movement.

DETAINEE TELEPHONE ACCESS

Calls to "800," "888," "900," and any other toll free numbers are not authorized and will not be made. The authorized "877" prefix is the one for contacting the Consulate office and the "800" prefix DJS's OIG hotline #1-800-323-8603, or a 1-800 number that is verified by staff, in advance of the call as legal, is acceptable.

Any 1-800 number that is legal and verified as legal is acceptable.

No three way calling is allowed.

Your access to telephones will be suspended at count times, in the event of an emergency, and when it is determined by staff to be necessary to protect the good running order and security of the facility. Telephone use time is limited to up to 20 minutes per call in order to provide telephone availability for all residents. During times of high use by housing unit residents, this rule will be enforced.

When you receive your pin number for the phone you must set up your voice recognition. To do that you must do the following: State your name and GEO Aurora ICE clearly – **Example: John Doe at GEO** you will be prompted several times to repeat this statement. You must use the same words and tone when setting up your voice and at any time you desire to make a call.

HEARING OR SPEECH IMPAIRED TELEPHONE

A portable phone for the hearing or speech impaired that complies with the American Disabilities Act is available for use if needed. Complete a Detainee Request Form (kite) if you require this service and send it to the Program Coordinator.

PRE-PAID PHONE TIME

Phones are available in all living areas and Intake. These phones can be used for personal calls. You must not interfere with another detainee's telephone privilege.

Pre-paid phone time may be ordered via 411# on the housing unit phones.

The phone time may be used to make national and international long distance calls in addition to being used for all local calls.

The cost of the phone time will be deducted from your personal account. Local and international phone call rates are posted in your living area.

Phone time cannot be turned in for money. When you leave the facility you will take your "Talton" pin card with you.

Detainees are personally responsible for maintaining their pin card in their locker.

Phone time may be purchased based on funds available – minimum purchase is \$5.00. Upon arrival, you will be given the opportunity to request phone time. Phone time (based on your funds) is applied to your account on the first business day following your arrival. Phone time is not posted on weekends or holidays. You may request same day phone time up to 3:45 p.m. Monday thru Friday excluding holidays. Any time requested after 3:45 p.m. on Friday will be applied on the following business day.

You cannot use personal phone cards – only facility purchased time may be used.

Your family and friends can leave you a voicemail by dialing (888) 516-0115 this will cost the person leaving the message \$1.00 for each voicemail.

Your family and friends can deposit funds on your phone account from the internet visit: www.Talton.net

USING THE HOUSING UNIT PHONES

Collect Calls: You need to dial (1) for English or (2) for Spanish directions followed by a (0), then the area code and phone number of the person you wish to contact. Once the number has been dialed, a voice prompt will ask for your name.

Pre-Paid Card: For instructions in English press (1) for instructions in Spanish press (2). After pushing (1) or (2) follow the voice prompted instructions.

INCOMING CALLS

Staff will take and deliver telephone messages to you as promptly as possible. If an emergency call is received for you, the caller's name will be taken and delivered to you as soon as possible. You will be permitted to return the emergency call as soon as reasonably possible within the constraints of security and safety. If you are indigent, staff will assist you in returning the call.

It is your responsibility to handle your telephone calls in a responsible manner. If it is determined that you are abusing this privilege, for example, having someone call in false legal calls in order to circumvent regulations and this is discovered by staff, disciplinary action may be taken against you.

DIRECT OR FREE CALLS

The telephone service generally available to detainees at this facility is limited to pre-paid time and collect calls. The facility shall provide detainees with the ability to make direct calls in the following circumstances:

- To consular officials.
- Emergency calls and other types of calls where a detainee can demonstrate a compelling need to make a direct call, such as a family emergency.
- To the local immigration courts and the Board of Immigration Appeals.
- To Federal and State courts where the detainee is or may become involved in a legal proceeding.
- To a government office, to obtain documents relevant to his/her immigration case.

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- Office of the Inspector General of the U.S. Dept. of Homeland Security at 1-800-323-8603
- Legal representatives to obtain legal representation or for consultation when subjected to expedited removal.
- UN High Commissioner for Refugees (UNHCR) 1-888-272-1913

Detainees shall be provided with the ability to make direct or free calls to the following:

1. Consulado de Mexico Denver
2. Pro Bono Denver
3. Metro Volunteer Lawyers
4. Catholic Immigration Services
5. Justice Information Center
6. A Welcome Place (Utah only)
7. Wyoming Legal Services (Wyoming only)

Providing access to a telephone that permits calls at no expense to you

UNUSED PHONE TIME

Upon departing the facility, you may have unused monies that you have placed on the detainee phone system. TALTON Communications is the company that Immigration and Customs Enforcement (ICE) has contracted with to provide service for the detainee population here. This company is separate and distinct from The GEO Group, and as such we have no control over their policies in this matter. TALTON will not consider a refund of phone monies until you have departed the facility (release or removal). Upon departure you must call TALTON at (866) 348-6231 and provide them with all requested information. Should the balance of your phone monies be less than \$50.00 dollars, you will then be provided a prepaid phone card in the amount owed. This prepaid phone card will be issued by TALTON in the form of a pin# that you can use wherever you are located (provided you are not incarcerated). Should the balance of your phone monies be \$50.00 dollars or more, then TALTON will send you your unused monies to the address you provide. The only exception to this would be if a credit card was used to purchase phone time, then the refund of phone time would be credited directly to the credit card used. Any further inquiries can be directed to TALTON through the phone system by dialing 211#.

SECTION IV DETAINEE SERVICES

The Aurora Detention Center provides various services to the detainees that are designed to take care of basic health, religious and social needs. You will be expected to cooperate with the staff during such times that you take advantage of these services.

RECREATION

You will be afforded at least four (4) hours a day, seven (7) days a week when housed in General Population. Recreation shall begin after morning count at 07:00 until 21:30 pm. Times are subject to change based on facility needs. You will be afforded the opportunity for recreation in the indoor/outdoor recreation areas, which is adjacent to each housing unit.

A schedule of recreation activities shall be arranged to coincide with normal center operations. Recreational activities in the housing units are limited to television viewing, card and board games, reading, puzzles, self-directed activities such as drawing, limited exercise and occasionally, an event such as bingo for the housing unit residents by the recreation staff.

Rules governing recreation are as follows:

- Your housing unit will announce recreation.
- Tennis shoes, shorts, and t-shirt must be worn.
- You will conduct yourself in an orderly fashion during recreation.
- No food or drink is permitted in the recreational areas.

Detainees in Special Management Unit(SMU) for administrative or disciplinary reasons shall be offered at least two (2) hours of recreation or exercise opportunities per day, seven days a week.

TELEVISION

Detainees shall be provided a FM wireless radio and headset, and batteries for television viewing. If you request a replacement radio, headphone or batteries you will be charged for it and the batteries can be purchased through commissary. Indigent detainees will be handled on a case-by-case basis.

If you requested batteries from the business office you will have to exchange the old batteries for the new batteries with the housing unit officer. Exchanges are on a one for one basis and you must turn in the same amount of batteries that you are receiving. The maximum amount that can be exchanged at any time is two (2).

Television viewing hours will begin while breakfast is served. However clean up after breakfast must meet the satisfactory level of the officer to have the televisions turned on.

Detainees will be allowed to select the television programs they wish to watch. The housing unit officer will supervise this activity to insure that it is fairly operated and not abused. Abusive use will result in the housing unit officer taking action to discontinue TV viewing for a period of time.

Televisions may be turned off by any staff member in conjunction with the Lieutenant at any time if the detainees in the housing unit are uncooperative with regular operations which must occur in the housing unit, i.e., sanitation and maintenance work and/or if housing unit residents become disorderly, violate security, etc., or if staff determine the need to protect the orderly and safe operation of the housing unit/facility. The television will be turned on once cooperation and order is restored.

The televisions will be turned off at 11:00 p.m. Sunday through Thursday and 12:00 a.m. Friday and Saturday. Headphones are provided to you to hear the televisions and must be turned into your housing officer upon your release.

All activities in the housing unit will cease when the televisions are turned off for the night. Detainees will clear the dayrooms and will go to bed. Detainees will not be permitted to sit in the dayroom or to walk around in the dayrooms once the televisions are turned off, thus allowing other residents the opportunity to sleep without distractions.

Detainees are not authorized television controls in any manner.

Detainee in Administrative Segregation, not Disciplinary Segregation, will be offered television. If a detainee is housed in Medical, a medical clearance must be given from the medical department first. However, a detainee must have good cell sanitation to be eligible for television viewing in the medical dayroom. There are no food and drinks allowed in the medical dayroom while watching television.

SMOKING

This is a non-smoking facility. Tobacco products of any kind are prohibited within the facility.

EDUCATION

If you are interested in sobriety programs or educational programs while you are here, contact the Program Coordinator to discuss your interest and see if you are eligible.

FOOD SERVICE

The center provides three (3) nutritionally balanced meals per day. All meals are prepared in a clean and sanitary manner, and the kitchen is operated under guidelines set down by the Health Department and is periodically inspected by local health department officials. The use of food, i.e. withholding of, or variation from the standard menu, as a disciplinary measure or reward is prohibited. Special diets as required for medical reasons or adherence to religious dietary law are provided by the Food Service Department. You will be issued an appropriate eating utensil(s) and napkin. Meal times and menus are posted on the bulletin board in your housing unit.

- All menus are screened and approved by a registered dietitian to ensure a balanced diet that provides the proper nutritional value for all meals served.
- If you require a special diet for medical reasons, it will be implemented upon the written notification from the medical department to the kitchen supervisor.
- You are not permitted to barter with food handlers for special or additional food.
- Conduct during meals will be orderly and courteous at all times. There will be no loud talking or disruptive behavior. Stand back from the food carts to allow food to be served to all detainees without interference. Interference will not be tolerated at any time.
- You will not store open containers of food in your housing unit. Open food containers are not allowed due to safety and sanitary reasons. Food ordered from the Commissary in closed containers may be stored. Food served during meal service will not be stored in abundance in your living/bed area due to sanitation and health hazards.
- Refusal or bartering of a special diet (religious/medical) will result in a review of the diet request and possible discontinuation of diet.
- When receiving your meals you will be required to have on a minimum of shorts, t-shirts, shower shoes.
- Detainees that are assigned to the food service department shall have a neat and clean appearance
- Upon leaving the kitchen after you have completed your shift, you will be searched before going into your housing unit.
- All detainees working in food service areas shall use hair nets. Persons with hair that cannot be adequately covered up with a hair nets shall be prohibited from food services operations. Beard guards are also available.

- Detainees will receive a medical exam (from the medical department) before entering the kitchen to work.

Meal times are as follows:

Breakfast at approx. 05:30 am
 Lunch at approx. 10:30 am
 Dinner at approx. 5:00 pm

RELIGIOUS DIETS

GEO facilities provide a pork-free menu which accommodates most religious dietary requirements. A non-flesh (vegetarian) diet may be provided for those who are uncomfortable with or prohibited from eating from the main menu.

Procedures are in place to reasonably accommodate detainees who have special religious dietary requirements. When a detainee's religion requires special food services, either daily or during particular periods of religious fasting, praying or holiday celebration; reasonable accommodations will be made to provide meals not religiously prohibited. If you require a religious diet, you must submit an "Authorization for Common Fare Participation" to the Programs Coordinator requesting the diet. No food items can be substituted from the "Common Fare" menu if you are enrolled.

The Chaplain or his designee may remove a detainee from the diet at the request of the detainee or at the request of the medical department due to medical reasons consistent with maintaining safety or security operational procedures. Detainees who are removed by their personal request from the diet may NOT immediately re-enter the diet process.

The Chaplain or his designee may recommend withdrawal approval for a detainee's religious diet if the detainee is documented as being in violation of the terms of the religious diet program. If a detainee misses three consecutive common-fare meals, the Chaplain or his designee shall recommend in writing that the detainee be removed from the program.

HEALTH CARE

The facility maintains qualified, licensed medical professionals to attend to health problems.

REQUESTS

If you have a medical problem, you must fill out a **Medical Request Form**, which may be obtained from a Detention Officer. The request will be screened and scheduled for assessment by the appropriate health professional. Medical requests shall be placed by the detainee in the boxes labeled "Medical Requests/Grievances" that are in the respective housing unit and Segregation/SMU.

When there is an urgent medical request and a delay in medical care will result in a serious medical condition, you should alert a detention officer or speak with a nurse during medication rounds.

Filling out a kite instead of a Medical Request Form may cause a delay in being assessed for a particular medical problem.

SICK CALL

Sick call is conducted 7 days per week by a licensed nurse. If a particular medical problem falls outside of the scope of practice for either a registered nurse or a licensed practical nurse, you will be referred to a medical doctor, physician's assistant or nurse practitioner according to the schedule of the practitioners.

Should you require emergency medical attention, you will be taken to the nearest facility providing emergency services.

STAFF ASSISTANCE

If you cannot read or write, a facility staff member may assist you or you may have another detainee help you complete the medical request. Another detainee may not submit a request on your behalf.

HEALTH ASSESSMENT

You will receive a comprehensive health assessment including a physical exam, dental and mental health screening within the first 14 days of detention and annually. Routine dental treatment may be provided to detainees who have remained in the facility for six months consecutively. TB screening is performed for the safety and well-being of detainees as well as GEO staff. You will receive a screening for Tuberculosis upon arrival regardless of your records or status at a previous facility.

MEDICAL REQUESTS FOR MEDICAL OR DENTAL ATTENTION

All requests for routine medical or dental attention must be submitted in writing to the medical department on a medical request form. You must be fully dressed and show your identification when you talk to the nurse, during housing unit medication pass, or are going to the medical department for treatment.

PERSONAL MEDICATION

All medications that are brought into the facility are to be surrendered to Medical staff for disposition for the time you are here. Please ensure that you retrieve your personal medication before leaving.

EYE CARE

Family members may bring in prescription eyeglasses with approval of the Health Services Administrator if this is deemed necessary. Optometry referrals will be made if your visual acuity (after an eye exam) is worse than 20/50 in the best eye. Prescription eyeglasses are not available for detainees who have been detained less than one year. After one year, an eye exam will be provided and prescription glasses will be made available if justified by an eye exam. Generic reading glasses may be offered in the case of eye strain after consultation with the Health Services Administrator.

FACILITY PRESCRIBED MEDICATION

Medications will be administered as frequently as ordered by a health professional. When the nurses come into the housing unit to dispense medications, it is your responsibility to remain at

least 3 feet from the medical cart until the nurse calls you to receive your medication. The nurse must have an order to give medication and only in the doses and times the doctor has ordered. Medication rounds are performed twice a day 7 days per week. In order to receive prescription medications you must be present yourself during Medication Rounds with your identification and be fully dressed. You are responsible for ensuring that you receive your medication as it is not the responsibility of the nursing staff to locate you to take your medication. Touching or crowding the cart, taking medication or other items from the cart, being loud, aggressive, or hindering the nurse in any way is prohibited. You are responsible to report to the nurse to receive your medication. Your name will not be called. The nurse will not come back after leaving your housing unit. You are responsible to be ready to receive your medications. No Aspirin, Tylenol or Motrin will be administered at Medication Rounds unless prescribed by a doctor or dentist. However, these items are available for purchase from the commissary.

You will be asked to review and sign a contract of responsibility for "Keep on Person" medication (as prescribed) and medical devices and/or equipment. You will be asked to sign this document which also includes a waiver. You will be expected to abide by written instructions and rules associated with "Keep on Person" articles by securing them inside your personal bin under your bed. At no point in time are these articles to be lent to or borrowed out to another detainee.

REFUSING MEDICAL TREATMENT

You may refuse routine medical treatment, but will be administered treatment in the event of a life-threatening emergency. Do not submit a Medical Request unless you have a need for medical care. Should you refuse medical treatment after submitting a Medical Request Form, you will report sign a refusal with a medical professional witnessing your refusal. Should you refuse to be seen by a physician, you will report to the medical department to sign a refusal with medical professional witnessing your refusal. You cannot refuse the 14-day Health Assessment.

If you do not report to the medication cart, you will be reported as a no show. You will be taken to the doctor's appointment to sign a refusal in the doctor's presence.

The medical department will not approve the following:

- Non-medical diets (i.e. vegetarian diets)
- Extra bedding or mattresses (unless medically related)
- Extra or personal clothing
- Protein or herbal supplements
- Any medication not ordered by the Medical Director

COMMUNICABLE DISEASE GUIDELINES

In order to prevent the spread of communicable diseases, you need to follow basic sanitation rules and guidelines. Do not share eating utensils with other detainees. Do not share razors or towels. Throw used tissues in the trash. Do not spit in the sink, trashcans or on the floor.

Cover all coughs and sneezes with a tissue. Wash your hands with soap and warm water each time after you use the bathroom. Avoid contact with other detainee's body fluids. Do not use needles or allow another detainee to tattoo or pierce you with anything, at any time. Do not

share combs, toothbrushes, or food with other detainees. Wear your shower shoes while taking a shower.

MEDICAL DIETS

Medical diets are prescribed only by Medical Staff and only address specific needs such as diabetes, low salt, low fat, and certain medically proven allergies. Medical will not order a specific food for you or restrict something that you don't like. Medical staff will not prescribe a vegetarian diet or any diet required by religious beliefs. Those requests should be addressed to the Programs Coordinator.

BARBERING SERVICES

The hours for the barbershop vary, depending on staff and barber availability. Only approved detainees provide haircuts. A schedule will be posted in the housing units to inform you when your unit is scheduled for haircuts. The detainee cutting hair is not allowed to charge any fee, take commissary, phone cards or anything else of value in exchange for a haircut. The detainees cutting hair are only allowed to give regular haircuts; no fades or specialized haircuts.

Hair cutting restrictions are:

The removal or treatment of blackheads, carbuncles, infected hairs, or any sores or lesions is prohibited.

The pulling of hair from ears, eyebrows, and moustaches is prohibited.

No barbers will serve any detainee when the skin of the detainee's face, neck, or scalp is inflamed, scaling, contains pus, or is erupted, unless service of such detainee is performed in accordance with the specific authorization of the Health Services Administrator. No person will be served when infested with head lice.

LAUNDRY SERVICE

Mondays and Thursdays:

- Uniform exchange - Units A, D, Segregation and Medical
- Undergarment exchange* - Unit B

Tuesdays and Fridays:

- Uniform exchange - Unit B
- Undergarment exchange* - Units A, D, Segregation and Medical

Wednesdays:

- Linen exchange - Units A, D, Segregation and Medical

Thursdays:

- Linen exchange - Unit B

Blanket exchange

Blankets will be exchanged once per month on a one-for-one basis

All mesh bags need to be placed near the officer station no later than 0600. Medical and Segregation officers will insure the respective bags are ready for pick-up.

All exchanges will be on a one-for-one basis

All items will be washed, dried and the identical number of items returned to the housing unit.

You are not permitted to wash clothing, bedding, linens, tennis shoes or other items in the living units and you are not permitted to hang any laundry on the walls, beds, or other areas. You will be held accountable for clothing and bedding supplies issued to you. You are not authorized to alter, in any manner, the clothing you receive.

RELIGIOUS SERVICES AND SPIRITUAL COUNSELING

You have the right to freedom of religious affiliation and you will have the opportunity to practice your religious faith in a manner that is deemed essential by your faith, consistent with the safety, security and the orderly operation of the facility. Attendance at all religious activities is voluntary and open to all. You will be expected to recognize and respect the rights of others. Opportunities for religious activities are open to the entire population, without regard to race, color, nationality, or creed.

Qualified volunteers offer Catholic and Protestant Services along with non-denominational services on a weekly basis. These volunteers may also provide counseling services, provided there are available volunteers. Services may be provided to detainees who are in the SMU/Segregation Unit on an individual basis.

Worship services are conducted on a regular basis. Bibles, religious items and literature are available from the Programs Coordinator or designee upon request. If you have a question concerning your religious activities, contact the Programs Coordinator.

The observance of religious holy days is respected. The Programs Coordinator will work with you to accommodate a proper observance of important religious holy days. You must submit a written request to the Program Coordinator if you wish to participate in a religious holy day observance.

You may be allowed to wear or use personal religious items during religious services, ceremonies, or meetings in the multipurpose room, unless the Warden or Programs Coordinator determines that the wearing or use of such items would threaten facility security, safety or good order. Items of religious wearing includes, but is not limited to:

- Prayer shawls and robes;
- Kurda or ribbon shirts;
- Medals and pendants;
- Beads and various types of head wear

DETAINEE LIBRARY SERVICES

General library reading materials will be made available Monday through Friday, 7:30am-10:00 pm with the exception of court times and religious services.

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Leisure library books will be available in each housing unit in the multipurpose room.

You must submit a request (kite) to go to the library. You may have in your possession a maximum of three (3) books (hard or soft cover) and (2) magazine (other than those issued by Religious/Educational Programs). When you are leaving the facility, you must return any books and magazines belonging to the library to the housing unit officer.

COMMISSARY

You may order commissary throughout the week utilizing the kiosk. You may add to or subtract from your order during the week however the kiosk will be locked on Thursdays at 12:00 noon to finalize your purchase. Orders will be delivered weekly, usually on Fridays. Maximum purchase will be \$100.00 not including clothing and headphones. Prices are subject to change without notice as commissary costs increase. If you don't have enough money for the entire order you placed, the commissary department will fill your order based on how much money you have in your account to cover your order. Commissary items **MUST** fit in your locker. You must present your identification and be fully dressed to receive your order.

If you accept your order and leave the delivery area without checking it, items shorted will not be filled. It is your responsibility to check your order prior to leaving the delivery area.

If you are working, in visitation, court, or medical and the housing unit officer is able to verify that, your order will be left with the Lieutenant in a secure area and upon your return your order will be given to you and a signed receipt will be given to the officer.

MARRIAGE REQUESTS

The following guidelines will be used if you request permission to marry while in the custody of the Immigration and Customs Enforcement: The Immigration and Customs Enforcement will either grant or deny your permission to marry. The Warden will be advised of your request and of the decision of the Immigration and Customs Enforcement.

If permission is granted, you must make all arrangements for the marriage, which includes taking a blood test (if applicable), obtaining a marriage license, paying for all costs associated with the marriage and retaining an official to perform the marriage. GEO staff or the Immigration and Customs Enforcement will not participate in making marriage arrangements. Staff will accommodate arrangements made consistent with the safe, secure and orderly operation of the facility. The Warden reserves the right of final approval concerning the day, time, place and manner of all arrangements.

Only those persons necessary to perform the ceremony will be permitted to attend. Guests will not ordinarily be permitted to attend. Minors under the age of 17 and under will not be permitted to attend unless directly related – i.e., your immediate family. A detainee will not be allowed to leave the facility for the purpose of making marriage arrangements. The detainee or person(s) acting on his/her behalf shall bear all expenses relating to the marriage. Marriage ceremonies will be private, with no media publicity.

SECTION V SANITATION

The center will maintain the highest sanitation standards at all times in all locations without exception. There will be an organized, supervised and continuous program of daily cleaning by all detainees to maintain those standards.

PERSONAL HYGIENE

You are required to keep your body clean and free from offensive odors, lice or other parasites, and you are required to be dressed in a complete uniform during normal working hours when in the dayroom area or outside the housing unit, i.e. shirt, pants.

Personal hygiene items will be exchanged every other Monday. In order to receive a new bottle of lotion and/or shampoo you must exchange your empty bottles. Supplementary items are available for purchase from the commissary.

If you do not have money, you will be issued necessary items for the purpose of personal hygiene, but only the needed items in minimum quantities necessary will be provided.

You will have the opportunity to take at least one (1) shower daily. You are highly encouraged to shower and brush your teeth daily.

If you think you may be infested with "crabs" or other parasites, notify a medical staff person who will take immediate steps for delousing.

Disposable razors will be issued on a daily basis normally around 7:30 am, and only on day shift. If a detainee requests to shave, he or she will sign up on the razor issue form. Detainees will have one hour to use the razor and return it to the officer. Detainees reporting to work in the kitchen on the morning shift are also afforded the opportunity to shave before reporting to work.

If you will be attending a court hearing, you will be afforded the opportunity to shave before appearing.

Fingernail clippers are available for purchase through the commissary.

Flush the toilets after each use. Urinate and defecate in the toilets, not the floors or wall. Toilet paper may be obtained from detention staff.

You must wear shoes or shower shoes except when in your bunk. If you have peeling skin or cracks on your feet, you should notify Medical.

LIVING AREA/BED ASSIGNMENT

You are required to keep your personal living area clean and sanitary. This includes your bunk and immediate floor area around and under your bunk, locker, and any personal items.

Cleaning supplies will be provided, usually at specific times, as needed by the detention officer.

Housing units and all common areas must be kept clean and should be ready for inspection at any time.

You are required to keep all books, hygiene items and personal items in the storage unit provided.

If you have excessive personal items in your bed area including under your mattress, you will be afforded, during shakedown, the opportunity to place these items in your personal property or to dispose of the items. The Officers assigned to the housing unit along with the Shift

Supervisor will decide what items are excessive. If personal items are confiscated a receipt will be issued to you.

You are required to make your bunk in a neat and orderly manner by 0730. This means that the bottom and sides will be tucked under the mattress. The sides and ends will not hang down over the edge of the bed.

You may sleep on your bunk after it is made in the mornings, not under the covers/sheets. You may request a second blanket and sleep under the second blanket on the top of your made bed, not under the sheets until after the afternoon count has been completed. When you get up from your nap, you need to neatly fold your blanket and place it on your bed. Your bed is to be made when you are not occupying it.

Your towel needs to be neatly folded and hung on the hook and you may neatly hang your laundry bag over the hook as well.

You are authorized one mattress and one pillow. Excess pillows and mattresses will be removed from your bed.

Blankets, sheets or towels are not to be used as rugs, drapes, pillows, or tenting for purposes of concealment at any time.

Pictures, articles of any kind, or any other items may not be placed on the walls or other fixtures of this facility. This includes graffiti and other drawings or markings on any surface area, for example, the walls, your bed and bed area, bulletin boards, televisions, doors etc.

You will be assigned a bed and a storage unit for the storage of your personal property. *Do not move to another bed unless staff has authorized you to move.* You should also use your storage unit to store all of your personal property, including your commissary. Do not allow other detainees to have access to your personal property. If you do, you increase the probability that your personal items may be stolen. *It is your responsibility to take care of your personal items.*

HOUSING UNIT SANITATION

Each and every detainee must participate in the facility's sanitation program. A list of detainees is developed each day by staff and is posted daily for viewing. During a general cleanup all detainees must participate. The assigned Housing Unit Officer will be responsible for assuring this general cleanup is done on a regular basis.

DAY SPACE

Day rooms are open spaces in the housing units that are utilized for watching television, playing board games, dominos or cards, as well as for socializing among detainees. Tables with chairs are provided for your use in the dayroom.

All detainees in a housing unit are required to keep clean and sanitary all commonly accessible areas of the housing unit, including walls, floors, windows, window ledges, showers, sinks, toilets, tables, and chairs.

Detainees will take turns cleaning the area. If a detainee feels that everyone is not doing their fair share, the detainee should inform the housing unit officer of the problem. Action will be taken to resolve this problem.

The day room area will be kept clean at all times. Should an officer notice that the area is not clean, the officer will make available necessary cleaning supplies. If the detainees in the housing unit do not clean the area after being instructed to do so, the televisions will be turned off, and the detainees will not be permitted to participate in any activities/programs until the housing unit is cleaned. Continued refusal to clean the area will result in further disciplinary action.

Walls will be kept free of newspapers, clothing, cups, bowls, and other objects.

Bulletin boards contain information beneficial to you and are not to be defaced in any manner. Posted material is to remain on the boards until staff removes the item(s).

SECTION VI GRIEVANCE PROCEDURES

A Grievance is a complaint about the substance or application of any written policy, regulation or rule of Aurora Detention Center or the lack of application of a policy, regulation or rule, or a complaint about any behavior or action directed toward any detainee by staff or another detainee, or a violation of civil rights. You have a responsibility to use the program in good faith and in an honest and straightforward manner.

FILING A GRIEVANCE

If you have a grievance, you should first try to informally resolve it by bringing it to the attention of a detention officer, shift supervisor or staff member in charge of the area with which you have a problem. Each grievance filed must contain only one subject, or a group of closely related issues, under one subject. If your grievance contains more than one subject, contains vulgar language, or is submitted as a group grievance, the Grievance Coordinator will reject it without review. Grievances that are medically related must be placed into the mailbox labeled "Medical Requests/Grievances" and all other grievances must be placed into the mailbox labeled "Grievances".

You may obtain a Grievance form from your housing unit officer. You must fill out the form, sign and date it, and explain as best you can what the problem or complaint is and what relief is sought. You may obtain assistance of facility staff or another detainee in preparing your grievance. Another detainee may assist you with your grievance if you are illiterate or unable to communicate in English without charge or obligation of any kind. Another detainee cannot submit a grievance for you or any other detainee.

Grievances that are of an EMERGENCY nature will be responded to on an immediate basis in an effort to prevent problems that may arise due to delay. You must directly submit your grievance to a staff member for it to be treated as an emergency. The staff member will immediately contact the Shift Supervisor. If the Shift Supervisor concurs the grievance represents an emergency, he/she will submit a report to the Warden describing the problem and its resolution. Emergency grievances not resolved at the Shift Supervisor's level will be sent to the Grievance Coordinator for resolution during normal business hours.

If the emergency is medical in nature, the grievance will be submitted to the Health Services Administrator. This grievance will be reviewed within twenty-four hours of receipt. If a Shift Supervisor received the complaint during the absence of the Health Services Administrator, he/she will be contacted and advised of the complaint. The Health Services Administrator will advise the Shift Supervisor and the medical staff on the procedures to resolve the complaint.

If the Warden determines that your grievance is not an emergency, you will be contacted and advised of the non-emergency determination of the complaint and the complaint will be rejected as an emergency.

Detainees shall place completed grievances in the locked "Grievance Drop Box" located in each housing unit. The grievance may be placed in an envelope prior to being placed in the locked Grievance Box.

Each day (excluding weekends and holidays) all grievances will be collected from the grievance drop boxes.

If your written grievance is accepted, it will be forwarded to a department head or management level employee by the Grievance Coordinator to provide review and resolution of your grievance. For example, the Food Service Manager would be assigned to provide review of a grievance in the food service area. This information will be forwarded to the Warden for final review and approval. A written response to your grievance will be given to you within 5 working days excluding weekends and holidays. If you are illiterate or non-English speaking attempts will be made to translate the findings into your language.

The detainee may appeal the Department Head's decision to the Grievance Appeal Board (GAB) designee within five working days. The GAB may call witnesses, inspect evidence or otherwise gather facts essential to an impartial decision. The Board will offer the detainee the opportunity, if determined by the Board that additional information or clarification is required, to appear before the Committee to present his/her case, answer questions and respond to conflicting evidence or testimony. Within five days of reaching a decision, the GAB will provide the detainee with its response to the grievance, in writing. The written response will state the decision and the reason for it.

A final appeal may be filed to the Warden. The form will then be forwarded to the Warden. The Warden will respond to the appeal within five (5) working days for final resolution of the grievance.

Any detainee dissatisfied with facility response may file a grievance appeal and communicate directly with ICE/ERO.

No harassment, punishment or disciplinary action will result simply because you are seeking resolution of a complaint.

Detainees may file a complaint about ICE officer misconduct directly with the U.S. Department of Justice by calling 1-800-323-8603 or by writing to:
DHS OIG Hotline
245 Murray Drive SE
Building 410
Washington, DC 20538

SECTION VII SECURITY AND SAFETY – DETAINEES AND STAFF

PERSONAL SAFETY

You will be protected from personal abuse, corporal punishment, unnecessary or excessive use of force, and the right of freedom from discrimination based on sexual orientation or political beliefs, personal injury, disease, and damage to your property and harassment to the fullest extent possible.

You are responsible for your own behavior at all times and are to be courteous and respectful toward the facility staff. You are expected to treat staff, community volunteers and other detainees with respect at all times. Harassing, rude or demanding behavior and profanity toward staff or others will not be tolerated. You shall address all staff members by either their rank, title, or as "Mister", "Miss", or "Officer."

If you have a problem such as conflicts with other detainees, personal problems (family) or questions about this facility operation, ask your housing unit officer for assistance. If you feel that you should be moved from your current housing unit for your safety, notify an officer immediately.

Identifications Wristbands will be worn at all times. Removal, loss, or damage of your Identification Wristbands may result in the loss of privileges. If you lose and/or destroy your Identification Wristbands, submit a Detainee Request form. You may be charged a replacement cost.

Do not block exit doors with beds, chairs, lockers or other material or items that could interfere with emergency exit routes.

When you are called for release you will come out of your living area with all of your clothing, Identification and Wristband, bedding, library books and all of your personal belongings. Headphones and detainee handbooks will be given to your housing unit officer when you leave the unit or prior to leaving the unit.

The detention staff will make announcements for meals, recreation, visitation, clothing exchange and medication pass. You are responsible for being prepared to leave the housing unit when the doors are opened. Depending on the activities, you will be moved to various areas of the facility for court, medical appointments, visits and other functions. You are expected to walk in a quiet and orderly manner. Running inside the facility is prohibited, unless you're in the recreation yard. You are subject to a search of your person and your property. Normally you will not be allowed to take anything with you during your movement to and from most activities. You will be allowed to take necessary legal material with you when escorted to legal visits and court.

If you are housed in the SMU/Segregation Unit for any reason, you will normally be moved to the law library and other areas of the facility with your hands handcuffed behind you.

"Horseplay" or other such activities is prohibited at all times. Detainee Workers are not allowed to wear radio headsets or other devices that affect their ability to hear when working due to safety reasons.

ATTEMPTED ESCAPES

Any attempt to escape from this facility will result in serious disciplinary consequences. Attempted escape may significantly affect your legal standing and status and you may be subject to criminal prosecution.

COMMISSION OF A CRIME

Crimes committed by a detainee that violate local, State or Federal law, will be investigated and referred to the proper legal authority for action.

DESTRUCTION OF PROPERTY

If you are found guilty of destroying facility property, you may be charged for both replacing the item damaged or destroyed and the cost of reinstallation as well.

COUNTS

Official counts are conducted at 6:30 a.m., 2:00 p.m., 10:00 p.m., 1:00 a.m... You are required to be on your bed, sit/lay on your bed and remain stationary whenever a count procedure is taking place. You are also required to stand next to your bed for the 2:00 p.m. face to photos stand up count. You are to stay on your bed until directed by staff to restore movement. You are prohibited from interfering with the officer making the count. During count, all televisions, radios, and telephones will be turned off. All foot traffic will cease – detainees will not use the showers, toilets, urinals, or sinks, while count is in progress.

CONTRABAND

Contraband is any item or material that is not approved by the facility for possession, not sold in the commissary or not issued by staff. Some examples of contraband are:

- Unauthorized drugs
- Medication distributed by the medical staff not authorized for retention or prescribed for another detainee.
- Chemical intoxicants
- Alcoholic beverages or any other products containing alcohol in any form
- Obscene picture(s) and literature.
- Extra food items, which are not from the Commissary or authorized by the medical staff.
- Money, checks, or money orders
- Weapons or items that could be considered a weapon.
- Any tobacco product or matches/lighters
- Ammunition or explosives
- Combustible or flammable liquids
- Hazardous or poisonous chemicals or gases
- Tools of any type that could aid in escape

AUTHORIZED ITEMS

You are allowed to have in your possession the following items:

- Property that staff authorizes you to take to your living area.
- Item(s) pre-approved by the Chief of Security that are left for you.
- Facility items issued to you.
- Items purchased through the Commissary.
- Medication and materials authorized by the medical staff (when medication is authorized for retention).

PRISON RAPE ELIMINATION ACT (PREA) VIDEO

The facility will show you a PREA video in the Intake area during your initial processing

SEXUAL ASSAULT AWARENESS

GEO adheres to a standard of zero tolerance for incidents of sexual abuse or assault that may occur in this facility. Sexual assault or abuse of detainees by other detainees, staff, volunteers, or contract personnel is prohibited and subject to administrative disciplinary and criminal sanctions.

REPORT ALL ASSAULTS

If you become a victim of a sexual assault, report the incident immediately. Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported. You can report a sexual assault incident to facility staff, ICE/ERO personnel, or DHS or ICE headquarters, including through the following methods:

Report to the facility:

- Tell any staff member at the facility you trust (for example the PREA Programs Manager, Medical staff, Chaplains, Housing officer, Supervisors, etc)
- File an informal or formal grievance (including emergency grievance) with the facility

Report to the ICE Field Office:

- Tell an ICE/ERO staff member who visits the facility
- File a written informal or formal request or grievance to ICE/ERO.

Report to DHS or ICE Headquarters:

- Contact the ICE Community and Detainee Hotline, call the toll-free hotline at 1-888-351-4024
- Contact the ICE Office of Professional Responsibility (OPR) Joint Intake Center (JIC), call the toll-free hotline at 1-877-246-8253
- Write a letter to: P.O. Box 14475 1200 Pennsylvania Ave, NW Washington, D.C. 20044

You do not have to give your name to report sexual abuse or assault, but the more information you can provide, the easier it will be to investigate what happened. Staff members are required to keep the reported information confidential and only discuss it with the appropriate officials on a need-to-know basis.

**DEFINITIONS:
DETAINEE ON DETAINEE SEXUAL ABUSE/ASSAULT**

The definition of detainee-on-detainee sexual abuse/assault was expanded to include attempted sexually abusive contact in addition to completed sexually abusive contact. In addition, the qualification that "penetration, however slight, of the anal or genital opening of another person by hand or finger or by any object" the act of "touching of the genitalia, anus, groin, breast,

inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person" was also added to the list of acts constituting detainee sexual abuse/assault when accomplished by force, coercion, or intimidation.

STAFF ON DETAINEE SEXUAL ABUSE/ASSAULT

"Repeated verbal statements or comments of sexual nature to a detainee, including demeaning references to gender, derogatory comments about body or clothing, or profane or obscene language or gestures." Staff member engaging in, or attempting to engage in a sexual act with any detainee or the intentional touching of a detainee's genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desires of any person. Sexual abuse/assault of detainees by staff or other detainees is an inappropriate use of power and is prohibited by ICE policy and the law. Sexual conduct of any type between staff and detainees amounts to sexual abuse, regardless of whether consent exists.

PROHIBITED ACTS

This facility has a zero tolerance policy for sexual abuse and assault, which is prohibited by ICE policy and the law. A detainee or staff member who commits sexual assault shall be punished administratively and may be subject to criminal prosecution.

A detainee who engages in such behavior can be charged with the following Prohibited Acts under the Detainee Disciplinary Policy:

- Code 101: Sexual Assault
- Code 206: Engaging in a Sex Act
- Code 207: Making a Sexual Proposal or Threat
- Code 300: Indecent Exposure
- Code 404: Using Abusive or Obscene Language

Victimised detainees shall not be subject to disciplinary action for reporting sexual abuse or for participating in sexual activity as a result of force, coercion, threats, or fear of force. If you experience retaliation for reporting sexual abuse or for engaging in sexual activity as a result of In addition, consensual sexual conduct between detainees is also prohibited and subject to administrative and disciplinary sanctions.

DETENTION AS A SAFE ENVIRONMENT

While you are detained, no one has the right to pressure you to engage in sexual acts or engage in unwanted sexual behavior. Regardless of your age, size, race, ethnicity, sexual orientation or gender identity, you have the right to be safe from unwanted sexual advances and acts.

AVOIDING SEXUAL ASSAULT

Carry yourself in a confident manner at all times. Do not permit your emotions to be obvious to others.

Do not accept gifts or favors from others. Most gifts or favors come with strings attached to them.

Do not accept an offer from another detainee to be your protector.

Find a staff member with whom you feel comfortable discussing your fears and concerns. Report concerns!

Be clear, direct and firm. Do not be afraid to say "no" or "stop it now!"

Be alert! Do not use substances such as drugs or alcohol. These can weaken your ability to stay alert and make good judgments.

Stay in well-lit areas of the institution.

Choose your associations wisely. Look for people who are involved in positive activities like educational programs or religious services. Get involved in these activities your self.

Trust your instincts. If you sense that a situation may be dangerous, it probably is. If you fear for your safety, report your concerns to staff.

If you become a victim:

- Report it immediately to staff.
- Protection from assailants will be offered.
- You will be referred for a medical exam.
- Although you do not have to identify your assailants, the information will make it easier to protect you and others.
- Even if you do not name your attacker, you will continue to receive protection.
- It is extremely important to see Medical before you shower, shave, wash, drink or eat, change clothing or use the bathroom.
- Medical staff will examine you for injuries.
- You may also be tested for sexually transmitted diseases and evidence may be gathered.
- The exam will be conducted privately and professionally by a physician.

What will happen:

- An investigation will be conducted to determine the nature and extent of the misconduct.
- You may be asked to give a statement.
- You may be asked to testify.
- You will be offered protection.
- You will receive a medical examination.
- You will be offered counseling by: The Mental Health staff
Community resources if appropriate.

Help Available:

- Most people need help to recover from the emotional effects of sexual assault.
- This is true whether it occurred recently or in the past.
- Mental Health staff are available.

If you feel you might hurt someone else:

- If you feel you need help to keep from sexually assaulting someone else, psychological services are available to help you gain control.
- Ask Medical Staff for a referral.

How to report an incident of sexual assault:

- Notify any staff member immediately.
- If you do not wish to notify a staff member, you may write the Warden, Assistant Warden, or Health Services Administrator confidentially.
- You may also notify ICE according to the procedures outlined in your detainee handbook or call the DHS/OIG hotline at 1-800-323-8603.

Remember:

- It is every staff member's responsibility to ensure your safety.
- You will receive protection.
- Confidentiality will be maintained.

THE EMOTIONAL CONSEQUENCES OF SEXUAL ASSAULT

It is common for victims of sexual assault to have feelings of embarrassment, anger, guilt, panic, depression and fear several months or even years after the attack. Other common reactions include loss of appetite, nausea or stomach aches, headaches, loss of memory and/or trouble concentrating, and changes in sleep patterns. Emotional support is available from the facility's mental health and medical staff, and from the chaplains. Also, many detainees who are at high risk of sexually assaulting others have often been sexually abused themselves. Mental health services are available to them also so that they can control their actions and heal from their own abuse.

Sexual assaults can happen to anyone, any gender, age, race, ethnic group, socio-economic status and to an individual with any sexual orientation or disability. Sexual assault is not about sex, it's about power and control. All reports are taken seriously. Your safety and the safety of others is the most important concern. For everyone's safety, all incidents, threats, or assaults must be reported.

SECTION VIII DISCIPLINARY PROCEDURE

To provide a safe and orderly living environment, facility authorities will impose disciplinary sanctions on any detainee whose behavior is not in compliance with facility rules and procedures.

INVESTIGATION

When an alleged rule violation is reported, an appropriate investigation will begin within 24 hours of the time the violation is reported and is completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation.

UNIT DISCIPLINARY COMMITTEE (UDC)

The UDC shall be comprised of one to three members, at least one of who is a supervisor.

The UDC will conduct hearings and, to the extent possible, informally resolve cases involving "high moderate" or "low moderate" charges, in accordance with the list of charges and related sanctions. Unresolved cases and cases involving serious charges are forwarded to the Institutional Disciplinary Panel (IDP).

The UDC shall have authority to:

- Conduct hearings and informally resolve incidents involving High Moderate or Low Moderate charges.
- Consider written reports, statements, and physical evidence.
- Hear pleadings on the part of the detainee.
- Make findings that a detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence.
- Impose minor sanctions "E" through "M" in accordance with the table of prohibited acts and associated sanctions.

The detainee in UDC proceedings shall have the right to:

- Remain silent at any stage of the disciplinary process
- Due process, including a UDC hearing within 24 hours of the end of the investigation,
 - a. To attend the entire hearing (excluding committee deliberations); or
 - b. To waive the right to appear.
 - c. If security considerations prevent the detainee's attendance, the committee must document the security considerations.
- Present statements and evidence in his/her own behalf.
- Appeal the committee's determination through the detainee appeal process.

INSTITUTIONAL DISCIPLINARY PANEL (IDP)

This facility has a disciplinary panel to adjudicate detainee incident reports. Only the disciplinary panel can place a detainee in disciplinary segregation.

The IDP refers either one to a three-person panel appointed by the Warden, or a one-person disciplinary hearing officer.

The panel shall not include the reporting officer, the investigating officer, and any member of the referring UDC, or anyone who witnessed or was directly involved in the incident. Only if virtually every available officer witnessed or was directly involved in the incident shall an exception to this rule occur.

The IDP shall have authority to:

- Conduct hearings on all charges and allegations referred by the UDC.
- Call witnesses to testify.
- Consider written reports, statements, physical evidence, and oral testimony.
- Hear pleadings by detainee and staff representative.

- Make findings that the detainee did or did not commit the rule violation(s) or prohibited act(s) as charged, based on the preponderance of evidence.
- Impose sanctions as listed and authorized in each category.

The IDP shall:

- Verify that the detainee has been advised of, and afforded, his/her rights, as provided above.
- Remind the detainee of his/her right to a staff representative, providing one if requested.
- Advise the detainee of his/her right to waive the hearing and admit having committed the offense.
- Conduct the hearing on the first business day after receiving the UDC's referral, unless the detainee waives the 24-hour notification provision, requesting an immediate hearing. In cases where a hearing is delayed, the reason(s) must be documented (e.g., a continuing investigation of facts, the unavailability of one or more essential witnesses, etc.) and approved by the Warden. If the detainee is being held in segregation, the delay shall not exceed 72 hours, barring an emergency. Prepare a written record of its proceedings. This record must show that the detainee was advised of his/her rights. It must also document the evidence considered by the Panel and subsequent findings; the decision and sanctions imposed, along with a brief explanation.
- Forward the entire record to the Warden, who may (a) concur; (b) terminate the proceedings; or (c) impose more severe or more lenient sanctions.
- Serve the detainee with written notification of the decision.

STAFF REPRESENTATION

The Warden or designee shall, upon the detainee's request, assign a staff representative to help prepare a defense. This help will be automatically provided for illiterate detainees, detainees with limited English-language skills; detainees without means of collecting and presenting essential evidence and detainees in administrative or disciplinary segregation.

- A staff representative must be a full-time employee.
- Because of the potential conflict of interest, the Warden, members of the IDP and of the UDC initially involved in the case, eyewitnesses, the reporting and investigating officers, and anyone else with a stake in the outcome shall not act as staff representative.
- The detainee may select his/her staff representative, barring anyone identified in #2, above.
- The IDP shall arrange for the presence of the staff representative selected by the detainee. If that staff member declines or is unavailable, the detainee has three choices. He/she may select a different representative; wait for the unavailable staff member to become available (within a reasonable period); or proceed without a staff representative.
- A staff member declining to serve as a detainee's representative must state the reason on the staff representative form.
- If several officers decline, the Warden shall assign a staff member to serve as that detainee's staff representative.
- The staff representative shall be free to speak to witnesses and to present evidence in the detainee's behalf, including any mitigating circumstances.

- The IDP shall allow the staff representative enough time to speak with the detainee and interview witnesses. The standard pre-hearing preparation time will suit most cases. However, the IDP may grant a delay if required for an adequate defense.
- The IDP shall establish the reliability of information provided by a confidential informant before considering it in the disciplinary proceedings.
- The IDP may withhold the confidential informant's identity from the staff representative. While the staff representative may challenge the substance of any confidential information the IDP discloses, he/she may not question its reliability (pre-established by the IDP).
- When the detainee cannot effectively present his/her own case, the Warden shall appoint a staff representative, even if not requested by the detainee.

POSTPONEMENT OF DISCIPLINARY PROCEEDINGS

The facility shall permit hearing postponements or continuances under certain circumstances.

Circumstances justifying the postponement or continuance of a hearing might include: defense preparation, physical or mental illness, security, disciplinary transfer, deportation, or pending criminal prosecution.

An uncooperative detainee may also cause a delay in the proceedings, either because of inappropriate behavior during the hearing process or a refusal to participate in a productive manner.

DURATION OF PUNISHMENT

The duration of punishment shall be within established limits. Neither the panel recommending sanctions nor the Warden making the final decision shall impose sanctions arbitrarily, outside these limits.

1. Punishments range from the withholding of privilege(s) to segregation. Time in segregation after a hearing will generally not exceed 60 days.
2. Time served in segregation pending the outcome of the proceedings may be credited to the number of days to be spent in the segregation unit after the decision is announced.
3. The disciplinary report and accompanying documents are not placed in the file of a detainee who is found not guilty. However, the facility may retain the material in its own files for institutional uses (statistical, historical, etc.).
4. A detainee may be removed from segregation if a healthcare professional concludes that continued segregation is detrimental to the detainee's medical or mental health.

DOCUMENTS

All documents relevant to the incident, subsequent investigation, hearing(s), etc., will be completed and distributed in accordance with facility procedures.

Incident Report/Notice of Charges

The officer shall prepare a report and submit it to the Warden immediately after the incident takes place. If the incident is resolved informally, the officer will so note on the original report, which will then be forwarded to the Chief of Security via the shift supervisor.

If the UDC is to be involved, the supervisor shall serve the detainee with a copy of the Notice of Charges upon completion of the investigation, no less than 24 hours before the UDC hearing.

The UDC receives the original copy.

If the UDC hears the matter, the ranking member of that committee shall serve the detainee with a copy of the Incident Report/Notice of Charges indicating their decision. The UDC, upon conclusion of its proceedings, will forward the entire record to Classification.

CONFIDENTIAL INFORMATION

When a decision relies on information from a confidential informant, the UDC or IDP shall include in the hearing record the factual basis for finding the information reliable.

Prohibited acts are divided into four categories: "Greatest", "High", "Moderate", and "Low Moderate". The sanctions authorized for each category will be imposed only if the detainee is found to have committed a prohibited act.

"Greatest" offenses: The IDP shall impose and execute at least one sanction in the A through E range. Additional sanctions (A through G) may be imposed and either executed or suspended, at the discretion of the panel. The IDP may impose and execute sanctions F and G only in conjunction with sanction A, B, C, D, and/or E.

"High" offenses: The IDP shall impose and execute at least one sanction in the A through M range. Additional sanctions (A through M) may be imposed, and either executed or suspended, at the discretion of the panel.

"High Moderate" offenses: The IDP shall impose at least one sanction in the A through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.

"Low Moderate" offenses: The IDP shall impose at least one sanction in the E through M range, but may suspend any or all, once imposed. Similarly, the UDC shall impose at least one sanction in the G through M range, but may suspend any or all, once imposed.

DISCIPLINARY SEVERITY SCALE AND PROHIBITED ACTS

CODE: "GREATEST" OFFENSE CATEGORY

- 100 Killing
- 101 Assaulting any person (includes sexual assault)
- 102 Escape from escort; escape from a secure facility
- 103 Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of Greatest Severity, i.e. a riot or an escape; otherwise the charge is classified as Code 218 or 321)
- 104 Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous commissary, movies, chemical, explosive, escape tool, device or ammunition
- 105 Rioting
- 106 Inciting others to riot
- 107 Taking hostage(s)

- 108 Assaulting a staff member or any law enforcement officer
- 109 Threatening a staff member or any law enforcement official with bodily harm
- 198 Interfering with a staff member in the performance of duties (conduct must be of the Greatest Severity nature). This charge is to be used only if another charge of Greatest Severity is not applicable
- 199 Conduct that disrupts or interferes with the security or orderly running of the facility (conduct must be of the Greatest Severity nature). This charge is to be used only if another charge of greatest severity is not applicable

SANCTIONS

- A. Initiate criminal proceedings
- B. Disciplinary transfer (recommend)
- C. Disciplinary segregation (up to 60 days)
- D. Make monetary restitution, if funds are available
- E. Loss of privileges, i.e. commissary, etc.
- F. Change housing
- G. Remove from program and/or group activity

CODE: "HIGH" OFFENSE CATEGORY

- 200 Escape from unescorted activities, open or secure facility, without violence
- 201 Fighting, boxing, wrestling, sparring, and any other form of physical encounter, including horseplay that causes or could cause injury to another person; except when part of an approved recreational or athletic activity
- 202 Possession or introduction of an unauthorized tool
- 203 Loss, misplacement, or damage of any restricted tool
- 204 Threatening another with bodily harm
- 205 Extortion, blackmail, protection: demanding or receiving money or anything of value in return for protection against others, avoiding bodily harm, or avoiding a threat of being informed against
- 206 Engaging in sexual acts
- 207 Making sexual proposals or threats to another
- 208 Wearing a disguise or mask
- 209 Tampering with or blocking any lock device, includes keys
- 210 Adulteration of food or drink
- 211 Possession, introduction, or use of narcotics, narcotic paraphernalia, or drugs not prescribed for the individual by the medical staff
- 212 Possessing any officer's or staff clothing
- 213 Engaging in, or inciting a group demonstration
- 214 Encouraging others to participate in a work stoppage or refusing to work
- 215 Refusing to provide a urine sample or otherwise cooperate in a drug test
- 216 Introducing alcohol into the facility
- 217 Giving or offering an official or staff member a bribe or anything of value
- 218 Giving money to, or receiving money from, any person for an illegal or prohibited purpose, or introducing/conveying contraband
- 219 Destroying, altering, or damaging property (facility or another person's) worth more than \$100, or destroying altering, or damaging life-safety devices, i.e. fire alarm, regardless of financial value
- 220 Being found guilty of any combination of three or more high moderate or low moderate offenses within 90 days
- 221 Signing, preparing, circulating, or soliciting support for prohibited group petitions
- 222 Possessing or introducing an incendiary device, i.e. matches, lighter, etc.

- 223 Any act that could endanger person(s) and/or property
- *298 interfering with a staff member in the performance of duties (conduct must be of highest severity). This charge is to be used only when no other charge of highest severity is applicable.
- *299 Conduct that disrupts or interferes with the security or orderly operation of the facility (conduct must be of highest severity). This charge is to be used only when no other charge of highest severity is applicable.

*When the prohibited act is interfering with a staff member in the Performance of duties (Code 198, 298, 398, or 498) or conduct that disrupts (Code 199, 299, 399, or 499), the Disciplinary Committee should specify in its findings the severity-level of the conduct, citing a comparable offense in that category. For example, "We find the act to be of high severity, most comparable to Code 213, "engaging in a group demonstration".

SANCTIONS

- A. Initiate criminal proceedings
- B. Disciplinary transfer (recommend)
- C. Disciplinary segregation (up to 30 days)
- D. Make monetary restitution, if funds are available
- E. Loss of privileges: commissary, etc.
- F. Change housing
- G. Remove from program and/or group activity
- H. Loss of job
- I. Impound and store detainee's personal property
- J. Confiscate contraband
- K. Restrict to housing unit
- L. Reprimand
- M. Warning

CODE: "HIGH MODERATE" OFFENSE CATEGORY

- 300 Indecent exposure
- 301 Stealing (theft)
- 302 Misuse of authorized medication
- 303 Loss, misplacement, or damage of a less restricted tool
- 304 Lending property or other item of value for profit/increased return
- 305 Possession of item(s) not authorized for receipt or retention; not issued through regular channels
- 306 Refusal to clean assigned living area
- 307 Refusing to obey a staff member/officer's order (may be categorized and charged as a greater or lesser offense, depending on the kind of disobedience: continuing to riot is Code 105-Rioting; continuing to fight is Code 201-Fighting; refusing to provide a urine sample-Code 215)
- 308 Insolence toward a staff member
- 309 Lying or providing a false statement
- 310 Counterfeiting, forging, or other unauthorized reproduction of money or other official document, or item, i.e. security document, identification card, etc. (may be categorized as greater or lesser offense, depending on the nature and purpose of the reproduction, i.e. counterfeiting release papers to effect escape-Code 102 or 200)
- 311 Participating in an unauthorized meeting or gathering
- 312 Being in an unauthorized area

- 313 Failure to stand count
- 314 Interfering with count
- 315 Making, possessing, or using intoxicant(s)
- 316 Refusing a breathalyzer test or other test of alcohol consumption
- 317 Gambling
- 318 Preparing or conducting a gambling pool
- 319 Possession of gambling paraphernalia
- 320 Unauthorized contact with public
- 321 Giving money or another item of value to, or accepting money or another item of value from anyone
- 322 Destroying, altering, or damaging facility or another person's property worth less than \$100
- *398 interfering with a staff member in the performance of duties (offense must be of high moderate severity). This charge is to be used only when no other charge in this category is applicable.
- *399 Conduct that disrupts or interferes with the security or orderly operation of the facility (offense must be of high moderate severity). This charge is to be used only when no other charge in this category is applicable.

Note: Any combination of high moderate and low moderate offenses during a 90-day period shall constitute a high offense.

SANCTIONS

- A. Initiate criminal proceedings
- B. Disciplinary transfer (recommend)
- C. Disciplinary segregation (up to 72 hours)
- D. Make monetary restitution, if funds are available
- E. Loss of privileges: commissary, etc.
- F. Change housing
- G. Remove from program and/or group activity
- H. Loss of job
- I. Impound and store detainee's personal property
- J. Confiscate contraband
- K. Restrict to housing unit
- L. Reprimand
- M. Warning

CODE: "LOW MODERATE" OFFENSE CATEGORY

- 400 Possession of property belonging to another person
- 401 Possessing unauthorized clothing
- 402 Malingering, feigning illness
- 403 Smoking where prohibited
- 404 Using abusive language or obscene language
- 405 Tattooing, body piercing, or self-mutilation
- 406 Unauthorized use of mail or telephone (with restrictions or temporary suspension of the abused privileges often the appropriate sanction)
- 407 Conduct with a visitor in violation of rules and regulations (with restriction or temporary suspension of visiting privileges often the appropriate sanction)
- 408 Conducting a business
- 409 Possession of money or currency, unless specifically authorized
- 410 Failure to follow safety or sanitation regulations
- 411 Unauthorized use of equipment or machinery
- 412 Using equipment of machinery contrary to posted safety standards
- 413 Being unsanitary or untidy, failing to keep self and living area in accordance with posted standards
- *498 interfering with a staff member in the performance of duties (offense must be of low moderate severity). This charge is to be used only when no other charge in this category is applicable.
- *499 Conduct that disrupts or interferes with the security or orderly operation of the facility (offense must be of low moderate severity). This charge is to be used only when no other category is applicable.

SANCTIONS

- A. Make monetary restitution
- B. Loss of privileges i.e. commissary
- C. Change housing
- D. Remove from program and/or group activity
- E. Loss of job
- F. Impound and store detainee's personal property
- G. Confiscate contraband
- H. Restrict to housing unit
- I. Reprimand
- J. Warning

APPEAL PROCEDURE

A detainee who has been found guilty of a rules violation of this facility shall have the right to appeal his or her case to the Warden. Detainees are advised of their right to appeal decisions of the disciplinary hearing officer at the time they are provided the decision.

If a detainee wishes to appeal his/her case, he/she must so indicate by signing the Appeal Form (on the back of a grievance form) in the appropriate space and submit written reason (s) for his/her appeal.

The sanctions imposed by the hearing officer will remain in effect pending the outcome of the appeal.

The Warden will review the final appeal as soon as possible, but no later than five (5) days, including weekends and holidays, after the final appeal has been received. The Warden will notify the detainee in writing of his decision.

ADMINISTRATIVE SEGREGATION ORDER

A written order shall be completed and approved by a supervisory officer before a detainee is placed in administrative segregation, except when exigent circumstances make this impracticable. In such cases, an order shall be prepared as soon as possible. A copy of the order shall be given to the detainee within 24 hours, unless delivery would jeopardize the safety, security, or orderly operation of the facility. No Administrative Segregation Order is required for a detainee awaiting removal, release, or transfer within 24 hours.

Reviewed

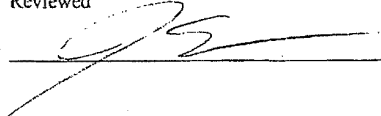
 Warden 10-7-13 Date

Exhibit BB

Facility Voluntary Work Program Pay Rates between 2011 and 2014

Adelanto Detention Facility	\$1.00
Aurora Ice Processing Facility	\$1.00
Broward Detention Facility	\$1.00
Mesa Verde Ice Processing Center	\$1.00
Montgomery Ice Processing Center ¹	N/A
Northwest/Tacoma Ice Processing Center	\$1.00
South Texas Detention Facility	\$1.00 to \$3.00
Folkston ICE Processing Center	\$1.00 to \$2.50
Joe Corley Detention Facility	\$1.00 to \$3.00
LaSalle Detention Facility	\$1.00 to \$4.00
Pine Prairie Detention Facility	\$1.00
South Louisiana Detention Facility ²	N/A

¹ The Montgomery ICE Processing Center was not in operation during the class period. Following the class period, detainees in the Voluntary Work Program were paid between \$1.00 and \$3.00 per day.

² The South Louisiana Detention Facility was not operated by GEO during the class period.

Exhibit CC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Case No. 1:14-cv-02887-JLK-MEH

ALEJANDRO MENOCA,
MARCOS BRAMBILA,
GRISEL XAHUENTITLA,
HUGO HERNANDEZ,
LOURDES ARGUETA,
JESUS GAYTAN,
OLGA ALEXAKLINA,
DAGOBERTO VIZGUERRA, and
DEMETRIO VALERGA,
on their own and on behalf of all others similarly situated,

Plaintiffs,

v.

THE GEO GROUP, INC.,

Defendant.

**DEFENDANT THE GEO GROUP, INC.'S SECOND SUPPLEMENTAL RESPONSES
TO PLAINTIFFS' FIFTH SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the Local Rules of the U.S. District Court for the District of Colorado, Defendant The GEO Group, Inc. ("Defendant" or "GEO") hereby supplements its response to Plaintiffs' Fifth Set of Interrogatories.

PRELIMINARY STATEMENTS

1. Defendant objects to the disclosure of any information protected from discovery by the attorney-client privilege or work product doctrine.
2. Defendant states any discovery relating to the production of confidential information regarding detainees, ICE employees, ICE policies, or official information of the U.S.

Immigration Customs and Enforcement ("ICE") is subject to federal regulations at 6 C.F.R. §§ 5.41–5.49 and by *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951) and the Amended Stipulated Protective Order Concerning Confidential Information (Nov. 26, 2018, Dkt. 157).

3. The responses below are to the best of Defendant's present ability and information. Defendant reserves the right to supplement these responses during and/or after completion of discovery, investigation, and preparation for trial. Defendant further reserves the right to introduce evidence at the time of trial based upon information and/or documents located, developed, or discovered at a later date, which may supplement, amplify, modify, or be in conflict with the following responses that are based upon present information only.

4. Defendant objects to Plaintiffs' Fifth Set of Interrogatories to the extent they seek information regarding GEO facilities, detainees, or employees unrelated to the ICE detention facility in Aurora, Colorado (the "Aurora Detention Facility"). Discovery seeking this information is overbroad and unduly burdensome. It seeks information neither relevant to any party's claims or defenses nor proportional to the needs of the case. In providing any responses to this discovery, absent Court order to the contrary, Defendant will only address information related to the Aurora Detention Facility.

5. Defendant objects to Plaintiffs' Plaintiffs' Fifth Set of Interrogatories to the extent they can be construed to seek continuous supplements because they do not state a defined time period. Any discovery without a defined end date is overbroad and unduly burdensome. It seeks information neither relevant to any party's claims or defenses nor proportional to the needs of the case because it includes the time period after the end of the certified class period. In providing

any responses to this discovery, Defendant will provide information related to a period ending October 22, 2014.

SUPPLEMENTAL RESPONSES TO PLAINTIFFS' FIFTH SET OF INTERROGATORIES

INTERROGATORY NO. 24: Identify all communications, acts, or authorization of any other kind from ICE that form the basis of your affirmative defense that Plaintiffs' claims relating to GEO's Housing Unit Sanitation Policy "are barred by the government contractor defense." ECF No. 26 at 14, ¶ 13.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 24:

GEO provides this supplemental response to Interrogatory No. 24, but notes that discovery is ongoing and it is premature at this time to identify all communications, acts, or "authorization of any other kind" that may be used to support this defense. As GEO identifies additional responsive information in discovery, it will update this response.

As an initial matter, GEO's policies are specifically approved by ICE. As is relevant here, ICE has approved the following sections of the Aurora Detention Center Policy and Procedure Manual:

- Section 12.1.4-AUR (Housekeeping Policy), signed by ICE at GEO_MEN 00001510.
- Section 8.1.8-AUR (Detainee Work Program) signed by ICE at GEO_MEN 00038548.

GEO is, and has been, in full compliance with all relevant and applicable sections, clauses, duties, requirements, and/or other obligations of any other kind related to detainee housekeeping requirements from or related to each of GEO's contracts with ICE for the operation and management of the Aurora ICE Processing Facility ("AIPF") during the relevant class period. ICE

and its designees have confirmed and documented GEO's full compliance with the above referenced contracts in a variety of manners including, but not limited to:

- No findings of contractual non-compliance with respect to GEO's operation and management of the voluntary work program or housekeeping policies from ICE personnel operating at the AIPF on a daily basis including, but not limited to, the Contracting Officer ("CO"), Contracting Officer's Technical Representation ("COTR"), Assistant Field Office Director ("AFOD"), and any other ICE official or representative.
- No adverse findings related to GEO's Quality Assurance Surveillance Plan (QASP) during any Quality Assurance Review (QAR) with respect to GEO's operation and management of the voluntary work program or housekeeping policies at the AIPF.
- No Contract Deficiency Reports (CDR) from ICE regarding GEO's operation and management of the voluntary work program or housekeeping policies at the AIPF.
- No adverse findings related to GEO's operation and management of the voluntary work program or housekeeping policies at the AIPF from any internal GEO or external ICE or ICE-contracted third-party audits. Such external audits have been conducted by, amongst others not identified herein, the following:
 - Department of Homeland Security Immigration and Customs Enforcement.
 - ICE Office of Professional Responsibility (OPR), Office of Detention Oversight (ODO).
 - The Office of Enforcement and Removal Operations (ERO), Detention Standards Compliance Unit.
 - The Commission on Accreditation for Corrections (accrediting body of the American Correctional Association).
 - Creative Corrections.
 - The Nakamoto Group, Inc.
 - MGT of America, Inc.

Furthermore, GEO has been in full compliance with ICE's Performance-Based National Detention Standards ("PBNDS") related to GEO's operation and management of the voluntary work program and housekeeping policies at the AIPF during the relevant class period. ICE and its designees have confirmed and documented GEO's full compliance in a variety of manners including, but not limited to, the review and audit results identified above. Below is an illustrative listing of some applicable sections of the PBNDS that GEO has complied with:

- Section 1.2.V.A.1 (General Environmental Health).

- Section 1.2.V.A.2 (Staff and Detainee Safety).
- Section 1.2.V.A.3 (General Housekeeping).
- Section 3.1 (Disciplinary System).
- Appendix 3.1.A (Offense Category III (High-Moderate), A (Prohibited Acts) 306 (Refusing to clean assigned living area).
- Appendix 3.1.A (Offense Category III (High-Moderate), B (Sanctions).
- Section 5.8 (Voluntary Work Program).
- Section 5.8.IV (References).
- Section 6.1 (Detainee Handbook).

Likewise, GEO has been in full compliance ICE's National Detainee Handbook, which is specifically incorporated into the PBNDS in Section 6.1:

- GEO-MEN 00064426 (*"Will I get paid for keeping my living area clean? No. You must keep areas that you use clean, including your living area and any general-use areas that you use. If you do not keep your areas clean, you may be disciplined."*); *See also* GEO-MEN 00141683 (*"Will I get paid for keeping my living area clean? No. You must keep areas that you use clean, including your living area and any general-use areas that you use. If you do not keep your areas clean, you may be disciplined."*); GEO-MEN 00062885 (same);
- GEO-MEN 00064460 ("You are not entitled to compensation for tasks that involve maintaining your personal living area or cleaning up after yourself in general use areas. You are required to perform basic cleaning tasks within your living unit, regardless of where you are held. For example, you could be disciplined if you refuse to make your bed or otherwise refuse to clean up after yourself.")
- GEO-MEN 00064428 (Detailing items detainees are responsible for doing under "general cleanliness" including cleaning-up crumbs from food in [a detainee's] housing area.)

Further, as required by its contracts with ICE, the AIPF has been in full compliance with all American Correctional Association (ACA) Performance-Based Standards for Adult Local Detention Facilities related to housekeeping standards and requirements during the entire class period. The AIPF has been fully accredited by the ACA during the entire class period and more importantly for the purposes of this request, there have been no adverse findings related to GEO's operation and management of the voluntary work program and housekeeping policies during any

ACA accreditation audit. Below is an illustrative listing of some ACA standard sections relevant to GEO's compliant operation and management of the voluntary work program and housekeeping policies:

- 4-ALDF-1A-01
- 4-ALDF-1A-02
- 4-ALDF-1A-04
- 4-ALDF-1A-13
- 4-ALDF-1C-04
- 4-ALDF-3A-01
- 4-ALDF-3A-02
- 4-ALDF-5C-06
- 4-ALDF-5C-08
- 4-ALDF-5C-12

Finally, ICE's on-site and off-site representatives (the CO, COTR, and AFOD) participate in GEO's staff meetings related to the management of the AIPC, including the implementation of all policies. ICE officials provide feedback where policies are inconsistent with ICE's intentions. *See e.g.* GEO-MEN 00099110. In these meetings, ICE has reviewed and approved GEO's housekeeping and work program policies, as is noted above.

GEO will update this response as it gathers additional information during discovery.

Respectfully submitted, this 6th day of March 2020.

AKERMAN LLP

s/ Colin L. Barnacle

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Attorneys for Defendant The GEO Group, Inc.

CERTIFICATE OF SERVICE

I hereby certify on this this 6th day of March 2020, a true and correct copy of the foregoing
**DEFENDANT THE GEO GROUP, INC.'S SECOND SUPPLEMENTAL RESPONSES TO
PLAINTIFFS' FIFTH SET OF INTERROGATORIES** was electronically served via e-mail on
the following:

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