

ICE/DRO DETENTION STANDARD

LAW LIBRARIES AND LEGAL MATERIAL

I. PURPOSE AND SCOPE. This Detention Standard protects detainees' rights by ensuring their access to courts, counsel, and comprehensive legal materials.

This Detention Standard 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 have regular access (no less than five hours per week) to law libraries, legal materials and related materials.
2. Detainees will not be forced to forgo recreation time to use the law library and requests for additional time to use the law library shall be accommodated to the extent possible, including accommodations of work schedules when practicable, consistent with the orderly and secure operation of the facility.
3. Detainees will have access to courts and counsel.
4. Detainees will be able to have confidential contact with attorneys and their authorized representatives in person, on the telephone and through correspondence.
5. Detainees will have access to a properly equipped law library, legal materials and equipment to facilitate the preparation of documents as well as photocopying resources.
6. Detainees who are illiterate, non-English-speaking or indigent will receive appropriate special assistance.
7. Detainees in special management units will have access to legal materials on the same basis as the general population.
8. 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 **Access to Legal Material** dated 9/12/2008.

IV. REFERENCES

American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-6A-01, 6A-02, 6A-03, 6A-09, 2A-62.

ICE/DRO Detention Standard on **Correspondence and Other Mail**, in regard to correspondence with attorneys and other legal representatives, judges, courts, embassies, and consulates.

ICE/DRO Detention Standard on **Telephone Access**, in regard to phone calls to legal representatives or to obtain legal representation.

ICE/DRO Detention Standard on **Visitation** in regard to visits from attorneys, other legal representatives, and legal assistants.

Office of the United Nations High Commissioner for Refugees Policy Memo, RefWorld database.

V. EXPECTED PRACTICES

A. Law Library

Each facility shall provide a properly equipped law library in a designated, well-lit room that is reasonably isolated from noisy areas and large enough to provide reasonable access to all detainees who request its use. It shall be furnished with a sufficient number of tables and chairs to facilitate detainees' legal research and writing.

B. Supervision

The facility shall develop procedures that effectively prevent detainees from damaging, destroying or removing equipment, materials or supplies from the law library.

Facilities are encouraged to monitor detainee use of legal materials to prevent vandalism.

C. Hours of Access

Each facility administrator shall devise a flexible schedule that:

- Permits all detainees, regardless of housing or classification, to use the law library on a regular basis.
- Enables the maximum use possible, without interfering with the orderly operation of the facility. Generally, law library hours of operation are to be scheduled between official counts, meals and other official detention functions.
- Determines the number of detainees permitted to use the law library at any given time.
- Takes into consideration any rules and regulations that prohibit or regulate the intermingling of differently classified detainees.

Each detainee shall be permitted to use the law library for a minimum of five hours per week and may not be forced to forego his or her minimal recreation time to use the law library, consistent with the security needs of the institution and the detainee. (See the Detention Standard on **Recreation**.) Staff shall accommodate detainee requests for additional law library time to the extent that is consistent with the orderly and secure operation of the facility, with special priority given to such requests from a detainee who is facing a court deadline.

D. Equipment

Each facility administrator shall designate an employee to inspect the equipment at least weekly and ensure it is in good working order and to stock sufficient supplies.

The law library shall provide an adequate number of computers with printers, access to one or more photocopiers and sufficient writing implements, paper, and related office supplies to enable detainees to prepare documents for legal proceedings. Typewriters, carbon paper, and correction tape may be substituted for computers and printers only if approved by ICE/DRO.

Detainees shall be provided with a means of saving any legal work in a secure and private electronic format so that they may return at a later date to access previously saved legal work product, consistent with the safety and security needs of the detainee and the facility.

E. Maintaining Up-to-Date Legal Materials

1. ICE/DRO Headquarters Coordinator

At ICE/DRO Headquarters, the Detention Standards Compliance Unit (DSCU) in the Detention Management Division is designated as the coordinator to assist facilities and field offices in maintaining up-to-date law library materials.

2. Updating and Replacing Legal Materials

Each facility administrator shall designate a facility law library coordinator to be responsible for updating legal materials, inspecting them weekly, maintaining them in good condition and replacing them promptly as needed.

a. Materials for Law Libraries

Each law library shall contain the materials listed in **Attachment A** (unless any are found to be no longer published) and may include the Optional Legal Reference Materials in **Attachment B**.

The DSCU coordinator shall request that the ICE Office of the Principal Legal Advisor (OPLA) review and update the contents of Attachment A at least annually. Updated materials will be provided as soon as practicable after such materials are published.

ICE/DRO shall arrange a subscription to the updating service, if available, for each publication on the list.

In addition, ICE, Detention and Removal Operations (DRO) will provide information on significant statutory and regulatory changes regarding detention

and removal of aliens in a timely manner, and provide initial copies to the facility.

b. Sources for Publications

(1) List of Publishers

Information regarding updating can be obtained directly from the publishers in **Attachment C**. The ICE Law Librarian can also provide updating information.

If anticipated updates are not received or if subscriptions lapse, the facility administrator (or designee) shall seek assistance from the DSCU coordinator.

When a facility receives replacement supplements or other materials, it shall dispose of the outdated ones.

Damaged or stolen materials shall be promptly replaced. In addition to its own inspections, the facility shall encourage detainees to report missing or damaged materials. The facility may obtain replacements by contacting the DSCU coordinator.

If materials from outside organizations need to be replaced, the facility shall contact ICE/DRO to obtain replacements from the submitting organization.

(2) Lexis/Nexis CDROM (or ICE-approved equivalent)

As an alternative to obtaining and maintaining the paper-based publications in **Attachment A**, a facility may substitute the Lexis/Nexis publications on CD ROM. Any materials listed in Attachment A which are not loaded onto the Lexis/Nexis CDROM must be maintained in paper form.

The facility administrator must certify to the respective Field Office Director – and the Field Office Director must verify -- that the facility provides detainees sufficient:

- Operable computers that are capable of running the Lexis/Nexis CDROM,
- Operable printers,
- Supplies for both, and
- Instructions for detainees on the basic use of the system.

Where the Lexis/Nexis CDROM or ICE-approved equivalent is not available or the other conditions for detainee access and use are insufficient, the materials listed in **Attachment A** are required. Any materials listed in Attachment A which are not loaded onto the Lexis/Nexis CDROM must be maintained in paper form.

F. Materials from Outside Persons or Organizations

Outside persons and organizations may submit published or unpublished legal material for inclusion in a facility's law library. If the material is in a language other than English, an English translation must be provided.

1. Published Material

If a facility receives published material, the facility administrator shall accept or decline it based on considerations of usefulness and space limitations. If published materials related to immigration law or procedures are declined, the facility administrator shall notify the submitter in writing and the Field Office Director of the reasons.

2. Unpublished Material

The facility administrator shall forward as soon as possible any unpublished immigration-related material received to the Field Office Director for review and approval. Unpublished material must have a cover page that:

1. Identifies the submitter and the preparer of the material;
2. Clearly states clearly that ICE/DRO did not prepare and is not responsible for the contents, and
3. Provides the date of preparation.

ICE/DRO shall expeditiously make its decision whether to approve the material, ordinarily within 45 days. ICE/DRO may object in whole or in part to materials that may pose a likely threat to the security or good order of the facility, or that misstate immigration law, policy or procedures. The Field Office Director shall consult with the respective ICE Chief Counsel and other appropriate ICE/DRO and facility staff to determine whether to approve the materials:

If approved, the ICE/DRO shall notify the facility administrator and the submitter.

If not approved, the ICE/DRO shall inform the submitter in writing of the reasons.

G. Requests for Additional Legal Material

Detainees who require legal material not available in the law library may make a written request to the facility law library coordinator, who shall inform the Field Office of the request as soon as possible. If the request is not approved, ICE/DRO shall inform the submitter in writing of the reason for the denial.

ICE/DRO, with the assistance of the respective ICE Chief Counsel, shall answer all requests within five business days. Requests from detainees who are facing imminent deadlines will receive priority. Requests for copies of court decisions will normally be available within three business days, which should guide responses to other requests.

H. Photocopying Legal Documents

The facility shall ensure that detainees can obtain photocopies of legal material when such copies are reasonable and necessary for a legal proceeding involving the detainee. This may be accomplished by providing detainees with access to a copier or by making copies upon request.

The number of copies of documents to be filed with a particular court, combined with

the number required for ICE/DRO records and at least one copy for the detainee's personal use, will determine the number of photocopies required.

Requests for photocopies of legal material may be denied only if:

- The document(s) might pose a risk to the security and orderly operation of the detention facility;
- There are other legitimate security reasons;
- Copying would constitute a violation of any law or regulation; or
- The request is clearly abusive or excessive.

Facility staff shall inspect documents offered for photocopying to ensure that they comply with these rules; however, staff may not read a document that on its face is clearly a legal document involving that detainee.

I. Assistance from Other Detainees

The facility shall permit detainees to assist other detainees in researching and preparing legal documents upon request except when such assistance poses a security risk. Such assistance is voluntary, and no detainee shall be allowed to charge a fee or accept anything of value for assistance.

The facility administrator may not pay compensation to a detainee for researching or preparing legal documents.

J. Assistance to Illiterate, Non-English Speaking and Disabled Detainees

Unrepresented illiterate or non-English speaking detainees who wish to pursue a legal claim related to their immigration proceedings or detention, and who indicate difficulty with the legal materials, must be provided with more than access to a set of English-language law books. To the extent practicable and consistent with the good order and security of the facility, all efforts will be made to assist disabled persons in using the law library.

Facilities shall establish procedures to meet this requirement, such as:

- Helping the detainee obtain assistance in using the law library and drafting legal documents from detainees with appropriate language, reading and writing abilities; and
- Assisting in contacting *pro bono* legal-assistance organizations from the ICE/DRO-provided list.

If such attempts are unsuccessful in providing the detainee sufficient assistance, the facility shall contact the ICE/DRO Filed Office to determine appropriate further action.

K. Personal Legal Materials

The facility shall permit a detainee to retain all personal legal material upon admittance to the general population or Administrative Segregation or Disciplinary Segregation units, unless this would create a safety, security or sanitation hazard.

For a detainee with a large amount of personal legal material, the facility:

- May place some of it in a personal property storage area, with access permitted during designated hours.
- Shall grant requests for access as soon as feasible, but not later than 24 hours after receipt of the request, unless documented security concerns preclude action within that time frame.

L. Law Library Access for Detainees in Special Management Units

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.

Facilities may supervise the library use by a detainee housed in a Special Management Unit as warranted by the individual's behavior. Detainees segregated for protection may be required to use the law library separately or, if feasible, legal material may be brought to them.

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.

Denial of access to the law library must be:

- Supported by compelling security concerns,
- Be for the shortest period required for security, and
- Be fully documented in the Special Management Unit housing logbook.
- The reason should be documented and placed in the detention file.

The facility shall notify the Field Office every time access is denied and send a copy of the proper documentation.

M. Envelopes and Stamps for Indigent Detainees

The facility shall provide indigent detainees with free envelopes and stamps for mail related to a legal matter, including correspondence to a legal representative, a potential legal representative or any court. Requests to send international mail shall be honored as is reasonable.

Ordinarily, a detainee is considered "indigent" if he or she has less than \$15.00 in his or her account. Facilities shall make a determination without unreasonable delay as to whether a detainee is indigent.

N. Notaries, Certified Mail, and Miscellaneous Needs Associated With Legal Matters

The facility shall provide assistance to any unrepresented detainee who requests a notary public, certified mail, or other such services to pursue a legal matter, if the detainee is unable do so through a family member, friend, or community organization.

If it is unclear whether the requested service is necessary, the respective ICE Chief

Counsel should be consulted. A reply will be received in a timely manner; pressing legal matters with a deadline will be prioritized.

Local consular officials will assist indigent detainees with international mail. As noted above, envelopes and stamps are provided to indigent detainees for delivery of mail to consulates in the United States.

O. Notice to Detainees

The Detainee Handbook or supplement shall provide detainees with the rules and procedures governing access to legal materials, including the following information:

1. That a law library is available for detainee use;
2. The scheduled hours of access to the law library;
3. The procedure for requesting access to the law library;
4. The procedure for requesting additional time in the law library (beyond the 5-hours-per-week minimum);
5. The procedure for requesting legal reference materials not maintained in the law library; and
6. The procedure for notifying a designated employee that library material is missing or damaged.
7. Required access to computers, printers, and other supplies.
8. If applicable, that Lexis/Nexis is being used at the facility and that instructions for its use are available.

These policies and procedures shall also be posted in the law library along with a list of the law library's holdings.

P. Retaliation Prohibited

Staff shall not permit a detainee to be subjected to reprisals, retaliation or penalties because of a decision to seek judicial or administrative relief or investigation of **any** matter, including (but not limited to):

- The legality of his or her confinement;
- The conditions of confinement or treatment while under detention;
- Any issue relating to his or her immigration proceedings; or
- Any allegation that the Government is denying rights protected by law.

Staff shall not permit a detainee to be denied access to the law library or to legal material as a disciplinary measure, reprisal, retaliation or penalty, except when the safety or security of the institution or detainee is a concern.

Standard Approved:

James T. Hayes, Jr. /s/

12/5/2008

James T. Hayes, Jr
Director
Office of Detention and Removal Operations

Date

Attachment A
List of Legal Reference Materials for Detention Facilities
Revised December, 2007

The information in Attachments A, B, and C was updated as of December, 2007. **All costs are approximate and need to be verified before purchase.** Further information can be obtained from the publishers, whose names and addresses are provided in Attachment C. Ordering and updating information can also be obtained from the ICE Office of the Principal Legal Advisor Law Librarian, Gayle Dixon, at (202) 616-2642.

1. *Constitution of the United States of America: Analysis and Interpretation.*
Prepared by the Congressional Research Service, Library of Congress, 1997.
One hardbound volume and 2004 supplement.
Order from: U.S. Government Bookstore
<http://bookstore.gpo.gov/>
Cost: \$215.00
Updated: Supplements and revised editions are published irregularly.

2. *United States Code, Title 8, Aliens and Nationality.*
Individual Titles of the United States Code Annotated are available
Order from Thomson West
Title 8 is in six volumes
Cost: \$75.56 each, \$604.48 for set
Annual updates in usually March, pocket parts \$15.37 per volume.

3. *Code of Federal Regulations, Title 8, Aliens and Nationality*
Codification of general and permanent rules
Published in the Federal Register.
Order from: U.S. Government Bookstore
<http://bookstore.gpo.gov/>
GPO Stock #869-060-00024-1
Cost: \$63.00
Published annually

4. *Bender's Immigration and Nationality Act Set.*

Immigration and Nationality Act updated quarterly
One loose-leaf volume.
Order from LexisNexis Matthew Bender
Publication number 132
Cost: \$135.00
Renewal subscription \$127.00

5. *Bender's Immigration Regulations Service*

Immigration and Nationality Regulations updated monthly.
Two loose-leaf volumes.
Order from LexisNexis Matthew Bender
Publication Number 695
Cost: \$324.00
 Annual Subscription \$278.00
Updated: Monthly

6. *Administrative Decisions Under Immigration and Nationality Laws.*

Board of Immigration Appeals (BIA) decisions consisting of
Bound volumes and loose-leaf decisions.

 Bound Volumes: Volumes 1-23 (1940-2006) Per Set \$1,625.00

 Single Volumes Per Vol. \$85.00

Interim Decisions 2006 (#3541) thru '07 service (5/31/08)

 w/Binder(s) \$175.00

Note: Precedent decisions (Vol. 8 and continuing)

 from the BIA are available at

http://www.usdoj.gov/eoir/vll/intdec/lib_indecitnet.html

7. *Immigration Law and Defense*, by the National Immigration Project of
the National Lawyers Guild.

Third Edition, includes forms.

Two loose-leaf volumes published 2001.

Order from Thomson West

Cost: \$520.00

Updated: Annual subscription \$338.28

8. *Immigration Law and Crimes*, by the National Immigration Project of the National Lawyers Guild

One looseleaf volume published 2006

Order from Thomson West

Cost: \$440.00

Updated: Annual subscription \$297.40

9. *Guide for Immigration Advocates*.

A manual covering the basics of immigration law and researching immigration law. Written as a simple guide for paralegals.

One loose-leaf volume. Published 2006.

Order from: Immigrant Legal Resource Center

Cost: \$185.00 for non-profit

Updated: Published irregularly

10. *Country Reports on Human Rights Practices*. Submitted by the Department

Of State to the Committee on Foreign Affairs of the U.S. House of Representatives and the Committee on Foreign Relations of the U.S.

Senate.

Two paperbound volume published annually.

Order from the U.S. Government Bookstore

<http://bookstore.gpo.gov/>

Cost: \$78.00

Updated: Published annually

Note: available electronically at www.state.gov/g/drl/rls/hrrpt/

11. *Human Rights Watch – World Report*.

One bound volume.

Order from Human Rights Watch, Publication Department

www.hrw.org

Cost: \$24.00

Updated: Annually

12. *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status.*

One pamphlet, Re-edited January 1992.

Download 61-page pamphlet from <http://www.unhcr.org/>

Updated: Irregularly

13. *Considerations For Asylum Officers Adjudicating Asylum Claims from Women.*

Immigration and Naturalization Service Memorandum May 26, 1995

Order from Gayle Dixon, ICE OPLA Law Librarian.

14. *Affirmative Asylum Procedures Manual*

CIS, Office of International Affairs, Asylum Division

Download from www.uscis.gov

161-page manual, February 2003

Updated: Irregularly

15. *AILA's Asylum Primer, 4th edition*

One softbound volume.

Order from American Association of Immigration Lawyers

Cost: \$74.00

Updated: Irregularly

16. *Rights of Prisoners.* 3rd Edition by Michael B. Mushlin

Three volumes published 2002

Order from Thomson West

Cost: \$386.00

Updated: Annual pocket parts \$201.60

17. *Federal Habeas Corpus, Practice & Procedure. 5th Edition*

Two volumes hardbound 2005 with current supplement.

Order from LexisNexis Matthew Bender

Cost: \$354.00

Updated: Annual pocket parts \$71.00

18. *Federal Civil Judicial Procedure and Rules.*

Paperback volume.

Order from Thomson West

Cost: \$66.00

Re-issued annually, usually in March.

19. *United States Code, Title 28, Rules, Appellate Procedure Pamphlets I + II*

Only the two softbound volumes contain the U.S. Court of Appeals Rules.

Order from Thomson West.

Cost: \$38.00 each volume, \$76.00 total

Updated: Annually, usually in June

20. *Federal Criminal Code and Rules.*

Paperback volume 2007.

Order from Thomson West

Cost: \$72.00

Updated: Published annually, usually in March.

21. *Criminal Procedure (Hornbook) By LaFave, Israel and King*

One volume. 2004

Order from Thomson West

Cost: \$53.10

Updated: Published irregularly

22. *Legal Research in a Nutshell.* 9th edition by Cohen and Olson

Paperback volume, published 2007

Order from Thomson West

Cost: \$29.00

Updated: Published irregularly

23. *Legal Research, Writing, and Analysis* by Murray and DeSanctis

One volume. 2005

Order from Thomson West
Cost: \$40.00
Updated: Published irregularly

24. *Black's Law Dictionary*, latest standard edition, in 2007, 8th edition

One volume, hardbound.
Order from Thomson West
Cost: \$67.00
Updated: Published irregularly

25. *Mexican Legal Dictionary and Desk Reference* by Jorge Vargas

One Volume, 2003
Order from Thomson West
Cost: \$70.00
Updated: Published irregularly.

26. *Directory of Nonprofit Agencies that Assist Persons in Immigration Matters*

Bound booklet, last issued in 1997..
Order from National Immigration Law Center
Cost: \$10.00
Updated: Irregularly

27. *Other Translation Dictionaries* Depending on the Most Common Languages
Spoken by the Detainee Population

28. *Detainee Handbook* and *Detainee Orientation Materials*

29. *Self-help Materials*. Materials provided by outside organizations after clearance
by District Counsel.

30. Telephone Books (Yellow pages) for local areas and nearby metropolitan areas
where counsel may be located.

Total Approximate Startup Cost: \$5,700

Note: Cost of an initial purchase of an item with an annual subscription includes the first year of subscription updates

Attachment B
Optional Legal Reference Materials
Revised December, 2007

1. Bender's Immigration Case Reporter. Decisions from Federal Court, BIA, AAU, and BALCA from 1984 forward.

Three volumes and looseleafs.

Order from LexisNexis Matthew Bender

Publication Number 403

Cost: \$812.70

Updated: Annual subscription \$767.55

Attachment C
Publishers' Addresses and Phone Numbers
Revised December, 2007

AILA Publications
P.O. Box 753
Waldorf MD 20604-0753
www.aila.org
1-800-982-2839

Human Rights Watch
Publications Department
350 Fifth Ave., 34th Floor
New York, New York 10118-03299
<http://hrwpubs.stores.yahoo.net>
1-212-216-1809

Immigrant Legal Resource Center
1663 Mission Street, Suite 602
San Francisco CA 94103
www.ilrc.org
415-255-9499

Lexis/Nexis Matthew Bender
1275 Broadway
Albany, NY 12204
Federal Government Sales : Robert Raskin
<http://bookstore.lexis.com/bookstore/catalog>
1-800-424-4200, Ext. 3610

National Immigration Law Center
NILC Publications
1102 S. Crenshaw Blvd., Suite 101
Los Angeles CA 90019

<http://www.nilc.org/>
213-938-6452

Thomson West
610 Opperman Drive
MS B-6M-N512
Eagan MN 55123
Federal Government Sales: David Waldhauser
1-800-328-9352, Ext. 7118

U.S. Government Printing Office
<http://bookstore.gpo.gov/>
1-866-512-1800

United Nations High Commissioner for Refugees (UNHCR)
1775 K Street NW, Suite 300
Washington DC 20006
<http://www.unhcr.org>
202-296-5191

William S. Hein & Co.
1285 Main Street
Buffalo NY 14209-1987
www.wshein.com
1-800-828-7571

Note: West Publishing Company was bought by Thomson, a Canadian corporation and is now operated as Thomson West. This company purchased Clark Boardman & Callaghan as well as a number of other small legal publishing companies.

LexisNexis Matthew Bender was formed by the purchase of LexisNexis, Matthew Bender Company, the Michie Company, and Shepard's-McGraw Hill, Inc. They are a division of Reed-Elsevier, a Dutch corporation.

Caution: Federal Government pricing is deeply discounted from prices found in the publishers general catalogs or websites. Always use the Federal Government contacts at the privately-owned publishers. If none is listed, ask if special Federal pricing is available. AILA gives ICE the member discount.