

ICE | ERO

U.S. Immigration and Customs Enforcement (ICE)

Enforcement and Removal Operations (ERO)

ERO Legal Access

Office of Detention Oversight Training

April 2022



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- Detention Standards
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Legal Access Program Overview



CPD facilitates enhanced access to legal resources and representation for detained individuals in ICE custody as mandated by U.S. law, current detention standards, and ICE policies. CPD provides guidance and serves as a resource for the field in navigating complex legal access-related issues.



Best Practices:

- Use of free virtual attorney visitation, especially in remote or underserved facilities.
- Optimize tablets to facilitate access to legal materials and nonconfidential legal communication.
- Provide consistent and clear procedures for legal service providers and detained individuals in accessing confidential and private legal calls.
- Establish a dedicated public facing email inbox for legal representative inquiries that is checked regularly throughout the day.

Value for the field:

- Routes inquiries received from external stakeholders and detained noncitizens to Legal Access Points of Contact in ERO field offices (LA POCs) to ensure awareness and resolution, where necessary.
- Identifies and assists in implementation of best practices to facilitate detained individuals' access to counsel and legal materials in an effort to avoid complaints and possible litigation against the Agency.
- Provides training to the field on legal access issues and supports field offices in defending complaints and implementing court orders on these issues.

ERO Legal Access Resource Center

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- · Overview of Detention Standards:
 - Law Libraries and Legal Resources
 - Legal Rights Group Presentations



Detention Standards



Legal Access in Detention Standards

Detention Standards seek to ensure that detainees have confidential contact with attorneys and their authorized representatives in person, on the telephone and through correspondence; and that they have access to information and resources that inform their immigration court case. The following Detention Standards are applicable to legal access:

Correspondence and Other Mail - Ensures that detainees shall be able to correspond confidentially with their legal representatives

Telephone Access - Ensures that detainees are able to communicate effectively and confidentially with legal representatives, including free calls to pro bono legal service providers

Visitation - Ensures that detainees be able to have confidential and private meetings with their legal representatives

Law Libraries and Legal Materials - Ensures that detainees have access to courts, counsel and comprehensive legal materials

Legal Rights Group Presentations - Ensures access to information presented by outside persons for the purpose of informing detainees of U.S. immigration law and procedures



Correspondence and other Mail

Correspondence and other Mail (see <u>NDS 2019</u>, <u>PBNDS 2011</u>, <u>PBNDS 2008</u> and <u>NDS 2000</u> "Correspondence and Other Mail")

- This standard requires that detainees shall be able to correspond with their legal representatives, government attorneys, and the immigration court.
- Detainees may receive as correspondence any material reasonably necessary for his or her legal claim
- Outgoing legal mail shall not be opened or read; it may be inspected for the limited purpose of detecting contraband and/or confirming that contents qualify as legal mail.
- Outgoing legal mail must include the name, title and office of the recipient and be clearly marked as "legal mail."
- Incoming legal mail shall be **opened only in the presence of the detainee** and may be inspected for contraband but not read.
- Indigent detainees are allowed an unlimited amount of correspondence related to a legal matter, within reason.

Legal Telephone Access

Legal Telephone Access (see "Telephone Access" in <u>NDS 2019</u>, <u>PBNDS 2011</u>, <u>PBNDS 2008</u> and <u>NDS 2000</u>)

- This standard requires telephone access procedures to **foster legal access and communication** between detainees and their legal representatives.
- Detainees and their legal counsel shall be able to **communicate effectively** and **confidentially** with one another.
- A facility may **neither restrict the number of calls** a detainee places to his/her legal representatives, **nor limit the duration** of such calls.
- The facility shall have a **written policy** on the monitoring of detainee telephone calls, including the procedure for obtaining an unmonitored call to a court, a legal representative or for the purposes of obtaining legal representation.
- The facility must prominently post the current EOIR list of free local legal service providers and provide free phone calls to those listed for the purpose of obtaining representation.

List of Pro Bono Legal Service Providers Updated October 2016 http://www.justice.gov/eois/list-pro-bono-legal-service-providers Dallas Immigration Court Dalles, Texas Catholic Charities of Dalles, Inc. taptist Immigration Center 9461 LBJ Precessy, Suite 199 Dassas, TX 73243 Alex Camacho, Accredited [214] 634-7182 307 Titus Street Representation in removal proceedings for detained Mickinney, TX 75069 972] 362-4361 Will represent aliens in Asylum cases Do not take cases related to or caused by drug or child abuse Does not provide representation for aliens detained Provide assistance in some cancellation of remova; at the Big Spring facility, Eden, or Oklahoma Human Rights Indiative of Sorth Texas, Inc.* Justice for Our Neighbors DPW ZSO1 Davida Avenue North-Central Region DeRes, TX 75204 (214) 855-0520 422 Church Street . Will only represent aliens in the Dellas Immigration irapevine, TX 76031 . Wis represent aliens in acylum cases Tele: (817) 310-3220 . Wis represent juveniles Feat (817) 310-3803 Wik NOT provide representation in detention TOO WIDING OF WWW Only represents clients at the Dallas immigration . Will represent aliens in asylum cases



Legal Visitation (see "Visitation" in NDS 2019, PBNDS 2011, PBNDS 2008 and NDS 2000)

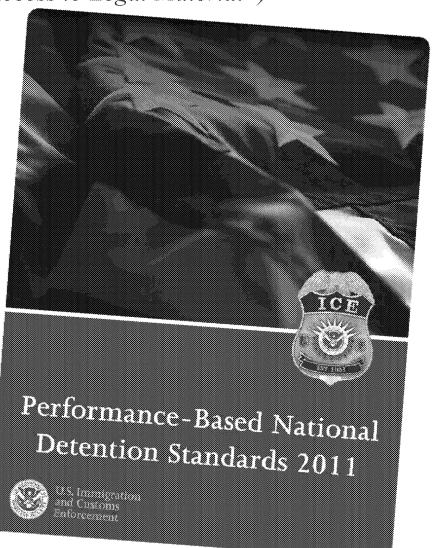
- This standard requires that visits between legal representatives and detainees are confidential and shall not be subject to auditory supervision.
- **Private consultation rooms** shall be available for attorney/client meetings.
- Documents or other written material provided to a detainee during a visit with a legal representative shall be inspected but **not read**.
- Detainees are entitled to retain legal material received during a legal visit for their personal use.
- Detainees in administrative or disciplinary segregation shall be allowed legal visitation.
- The facility must provide upon request the **legal visitation policy** that includes, but not limited to, visitation hours, procedures and standards.



Law Libraries and Legal Material

Law Libraries and Legal Material (see <u>PBNDS 2008</u>, <u>PBNDS 2011</u> and <u>2019 NDS</u> "Law Libraries and Legal Material"; <u>NDS 2000</u> "Access to Legal Material")

- These standards protect detainees' rights by ensuring their **access** to courts, counsel and comprehensive legal materials.
- Detainees shall have access to a **properly equipped law library**, legal materials and equipment (including photocopying resources).
- Detainees shall have meaningful access (no less than five hours per week) to law libraries, legal materials and equipment. PBNDS 2011 adds that where possible, access should be no less than 15 hours per week.
- All detainees regardless of housing or classification shall be given access to the law library on a regular basis.



Law Libraries and Legal Material

Law Libraries and Legal Material (continued)

- Detainees shall be provided with a **means of saving any legal work** in a secure and private electronic format.
- Sufficient writing implements, paper, photocopiers and related office supplies shall be provided to detainees to prepare documents for legal proceedings.
- Photocopies of legal material and special correspondence shall be **provided free of charge.**
- Facility staff shall provide **assistance to detainees in accessing legal materials** where needed (e.g. orientation to written or electronic media and materials; assistance in accessing related programs, forms and materials).
- The facility shall permit a detainee to retain all personal legal material upon admittance.
- Detainees shall be **notified of the facility's rules on law libraries and legal material** through the detainee handbook.



Legal Rights Group Presentations

Legal Rights Group Presentations (see <u>NDS 2019</u>, PBNDS <u>2011</u> and <u>2008</u> "Legal Rights Group Presentations" and <u>NDS 2000</u> "Group Presentations on Legal Rights")

- This standard ensures detainee access to information presented by authorized persons and organizations for the purpose of informing them of U.S. immigration law and procedures.
- This includes **pro bono legal rights group presentations** as well as **legal orientation programs (LOPs)** carried out by the Department of Justice Executive Office for Immigration Review (EOIR).
 - Note: Most of the standards specifically state the legal right group presentation requirements may not apply to the EOIR LOP Service Providers. This is because it is a federal government contracted program and providers are bound by DOJ EOIR requirements. (See e.g., PBNDS 2011 6.4.V.D.)
- EOIR carries out LOPs through contracts with **non-governmental organizations** (NGOs), and in consultation with ICE/ERO.
- All facilities are required to **cooperate fully** with all authorized persons seeking to make legal rights presentations.
- Detainees shall have access to information and materials provided by legal groups.



Law Library Resources



U.S. Immigration and Customs Enforcement (ICE) detention standards require certain legal reference materials to be provided to detainees to help ensure compliance with U.S. law and afford detainees due process with regard to access to courts, counsel and legal materials to prepare for their immigration cases.

ICE has developed the Law Library manual to assist Law Library Coordinators and other facility staff recognize what resources and tools are available from ICE and how best to utilize and share best practices.

Most of the required resources enumerated in the detention standards are provided via the LexisNexis database. For a full list of the materials required in your facility see: NDS 2019 6.3.II.C; PBNDS 2011 6.3, Appendix 6.3.A; PBNDS 2008 6.36, Attachment A; NDS 2000 Access to Legal Material, Attachment A.



Electronic Media: Law Library Materials

What is on the LexisNexis Electronic Database (External Hard Drives)?

The LexisNexis Electronic Law Library (ELL) has all the required resources listed under PBNDS 2011 (Rev. 2016) Appendix 6.3.A as well as other additional content:

- EOIR LOP materials (under Content Languages/I Speak): available in English, Spanish, French, Portuguese, Haitian Creole, Arabic, Russian, Chinese, Punjabi, and Hindi
- Immigration and criminal statutes and case law
- Country condition information and human rights reports
- Topical resources: Criminal Convictions & Immigration Relief, Bond, Asylum, Violence Against Women Act (VAWA), Trafficking, and Victims of Crime (U-Visa), Citizenship & Naturalization, and Immigration Courts and Appellate procedure
- Immigration Legal Service Provider information: EOIR pro bono list, the Immigration Advocates Network, and other lists
- Handbooks and practice guides by federal agencies, UNHCR, and immigration legal service providers
- **Parental Interests information**: toolkit on child welfare and family court related matters, 50 state packet of Delegation of Parental Authority forms (to designate temporary custody), and a Supplement with useful contact information
- **Detention information** (ICE policies, privacy forms and other detention standards)
- ICE National Detainee Handbooks (available in all languages)
- Immigration Forms
- Complaint information (in multiple languages)
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Electronic Media: Law Library Materials

LexisNexis Electronic Law Library (ELL) User Guides

Information for Law Librarians and Detainees

- The full LexisNexis Electronic Law Library
 Guide provides an overview of the ELL
 LexisNexis database organization, list of
 resources, and how to conduct searches
- The Quick Reference guide is a 2-page document intended to aid detainees in conducting searches on the LexisNexis ELL database
- Both are located on the main index page of the ELL and are available in English and Spanish



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LexisNexis® Electronic Law Library Training Manual

Immigration & Customs Enforcement

All information provided in this document is general in nature and is provided for educational purposes only. It should not be construed as legal advice. For legal advice applicable to the facts of your particular invastion, you should obtain the services of a qualified attorney licensed to practice in your state.

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Suggested Posting: Housing Units & Law Libraries

ICE Detention Standards require that detainees be notified of the facility's rules on law libraries and legal material through the detainee handbook, including:

- 1. When the 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 five-hours-per-week minimum).

This flyer includes translations in: Spanish, French, Russian, Portuguese, Haitian Creole, Arabic, Chinese, and Vietnamese.

Law Library Information

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To request language assistance, disability accommodations, assistance or orientation on the electronic legal research database, or additional library hours, contact facility staff or you may call the DRIL at 1-888-351-4024 or 9116#

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Legal Orientation Program (LOP) & Legal Rights Group Presenters



- In 2003, the Department of Justice (DOJ) Executive Office of Immigration Review (EOIR) launched the Legal Orientation Program (LOP).
 - The LOP, which is operated by EOIR contractors, orients detained noncitizens to the immigration court process and their rights, obligations, and legal options.
 - The LOP is comprised of four components (individual orientations, group orientations, self help workshops, and where available, referrals to pro bono counsel)
- In <u>2013</u>, Acting ERO Executive Associate Director Tom Homan signed memorandum outlining support ERO's support of the LOP.
- In <u>2017</u>, then Assistant Director Tae Johnson signed memorandum that provided updated guidance to Field Offices on best practices in support of the LOP.



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Referral List for LOP Participants Transferred to other LOP Facilities

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The Full List of Detention Facilities that have an official EOIR Legal Orientation Program (LOP), can be located on the ERO Legal Resource Center/Legal Service Providers.





On September 28, 2021, ICE ERO issued a revised memo titled Updated Guidance: ERO Support of the U.S. Department of Justice Executive Office for Immigration Review Legal Orientation Program for Detained Noncitizens in ICE Detention Facilities.

The 2021 memo supersedes the 2017 updated guidance memo in support of DOJ EOIR'S LOP.

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Office of Enforcement and Lemond

U.S. Department of Humsland SCOT Street CW Valenger, CC 20036



U.S. Immigration and Custons Enforcement

MEMORANDUM FOR

FROM:

Field Office Directors

Monica Burke Street

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SUBJECT

Acting Assistant Director for Custody Management Updated Guidance EPO Support of the U.S. Department of Instice Executive Office for Institute prices Legal Onestation Program for Detained Noncinzens in ICE

Detention Facilities

Dimens:

This memorandum provides updated guidance to Enforcement and Removal Operations (ERO) Field Office Directors (FODs), Deputy Field Office Directors, Assistant Field Office Directors, and Officers in Charge on best practices in support of the U.S. Department of hanice's (DOI) Executive Office for launigration Review (EOIR) Legal Orientation Program (LOP). The guidance in this memoranism is with respect to FOIR LOP only, as distinct from other legal right group providers because EOIR LOP to a federally funded and supervised contract. ERO is resume this guidance in support of increased information

This means and an replaces the previous memorandum Updated Guidance. ERO Support of the Department of Justice's Executive Office for Imaggration Review Legal Ortonation Program, issued on November 30, 2017, and provides an updated fix of U.S. Immigration and Customs Enforcement (ICE) detention facilities in which an LOP currently operates

For over 16 years, the DOJ FOIR Office of Legal Access Programs has worked to improve the efficiency of immigration court proceedings by increasing access to information and improving representation for individuals in proceedings. In 1805, EOIR inniched the LOP to

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Revised parts of the 2021 memo include:

- Reissuing attendance guidance similar to the memo from 2013
- Information sharing requirements and limitations
- Detainee eligibility further defined
- Accommodations for LEP, illiterate, or those with disabilities
- Remote LOP services provisions



Legal Rights Group Presentations



Overview of Detention Standards: Legal Rights Group Presentations

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Overview of Detention Standards: Legal Rights Group Presentations in the Legal Access Resource Center

- PBNDS 2008 6.37
- PBNDS 2011 6.4
- NDS 2019 6.4(II)

Note: Legal Rights Group Presenters are not covered in the Memo as they are not federal government contractors



Suggested Posting: Housing Units & Law Libraries

Programa de Orientación Legal (LOP, por sus siglas en inglés)

EOIR Legal Orientation Program (LOP) Information

Standards require that accommodations be provided to Limited English Proficient (LEP) detained noncitizens and those with disabilities. This flyer was created to inform noncitizens how they can request assistance.

The LOP flyer is translated into 8 languages and provides a notice of LOP legal service provider, how to locate LOP materials, and speed dial for the ABA LOP Line.

This flyer includes translations in: Spanish, French, Russian, Portuguese, Haitian Creole, Arabic, Chinese, and Vietnamese.

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ABAKnow Your Rights Video



ABA Know Your Rights Video

An additional resource for detainees is the ABA "Know Your Rights" Video, which is currently shown in most detention facilities

- This is a 45-minute video, offered in English, Spanish and other languages, that helps immigrant detainees understand how to navigate the court system and what to expect as they await their day in court.*
- The video has an accompanying <u>Know Your Rights Manual</u>, which is available in the law libraries.
- Most commonly shown at intake and/or on a loop in the housing units.
- Best practices include making the video available in detention facility law libraries for individual viewing.

*To obtain DVD copies of the Al	BA KYR video, plea	ase send a request to	Custody
Programs Legal Access team at	(b)(7)(E)	@ice.dhs.gov	







Contact & Resource Information



ERO Legal Access Email

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<u>@ice.dhs.gov</u> LEXIS NEXIS Mailbox <>

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Dice.dhs.gov

ERO Legal Access Team

(b)(6),(b)(7)(C), Senior Policy Advisor

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ICE.gov Attorney Information and Resources https://www.ice.gov/detain/attorney-information-resources



