

Facility Name: **KENOSHA COUNTY DETENTION CENTER, KENOSHA, WISCONSIN**

Date of Tour: **July 13, 2006**

Tour Participants: Latham & Watkins LLP attorneys and summer associates

*... rds are Detainee Services Standards unless otherwise indicated. Issues are generally listed in the order in which they appear in the Report.*

**Report comments in bold are priority issues for ICE-ABA discussion; others are issues of concern to discuss if time permits.**

|    | ICE Standard*  | Delegation Report  | Source  | ICE Response |
|----|--|--|---|--------------|
| 1. | Standard 17, Visitation<br><ul style="list-style-type: none"> <li>III.B. Notification. The facility shall provide written notification of visitation rules and hours in the detainee handbook .... The facility shall also post these rules and hours where detainees can easily see them.</li> </ul>  | <ul style="list-style-type: none"> <li><b>None of the policies regarding legal visits is contained in the Inmate Handbook. (p.4 ¶2)</b></li> </ul>   | Inmate Handbook.                                |              |
| 2. | Standard 17, Visitation<br><ul style="list-style-type: none"> <li>I. To maintain detainee morale and family relationships, INS encourages visits from family and friends.</li> <li>III.H. Visits shall be permitted during set hours on Saturdays, Sundays, and holidays. ... The facility's written rules shall specify time limits for visits: 30 minutes minimum, under normal conditions.</li> </ul> | <ul style="list-style-type: none"> <li><b>Family visits are only permitted on one weekend day—Sundays, for women. (p.5 ¶3)</b></li> <li><b>Family visits last approximately 20 to 30 minutes each. (p.5 ¶2)</b></li> </ul>   | Visitation schedule and Corporal                |              |
| 3. | Standard 17, Visitation<br><ul style="list-style-type: none"> <li>III.I.2. Hours. On regular business days, legal visitations may proceed through a scheduled meal period.</li> </ul>  | <ul style="list-style-type: none"> <li><b>Legal visits may not take place during lunch. If the legal visit is running into lunch, the attorney will be asked to stop the interview and may return after lunch to continue the visit. (p.3 ¶3)</b></li> </ul>   | Corporal  |              |
| 4. | Standard 16, Telephone Access<br><ul style="list-style-type: none"> <li>I. Facilities holding INS detainees shall permit them to have reasonable and equitable access to telephones.</li> <li>III.B. [T]he facility shall provide telephone access rules in writing to each detainee upon admittance, and also shall post these rules where detainees may easily see them.</li> </ul>                    | <ul style="list-style-type: none"> <li><b>The detainees are not given telephone access rules in writing; however, the rules are posted in the dorms. (p.7 ¶1)</b></li> <li>Telephone calls are expensive, costing as much as or more than \$20 per phone call, making it difficult for detainees to speak with their families. (p.7 ¶3)</li> </ul> | Corporal and delegation observations. Detainees |              |
| 5. | Standard 16, Telephone Access<br><ul style="list-style-type: none"> <li>III.I. The facility shall take and deliver telephone messages to detainees as promptly as possible. When facility staff receives an emergency telephone call for a detainee, the caller's name and telephone number will be obtained and given to the detainee as soon as possible.</li> </ul>                                   | <ul style="list-style-type: none"> <li><b>KCDC generally does not take messages for detainees, though they do relay emergency messages. (p.8 ¶3)</b></li> </ul>  | Corporal  |              |

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| 6.  | <p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> <li>I. Facilities holding INS detainees shall permit detainees access to a law library, and provide legal materials, facilities, equipment, and document copying privileges, and the opportunity to prepare legal documents.</li> <li>III.B. Equipment. The law library shall provide an adequate number of typewriters and/or computers ... to enable detainees to prepare documents for legal proceedings.</li> </ul> | <ul style="list-style-type: none"> <li><b>KCDC has no law library. Rather, it has a computer cart with a computer that allows detainees to access certain legal reference sources. (p.9 ¶4) One detainee was not aware that there is a computer with legal reference materials. (p.11 ¶6)</b></li> <li><b>One computer may be inadequate for the population of 388 inmates, including 93 detainees, even though detainees are given priority. (p.10 ¶5)</b></li> </ul> | <p>Corporal<br/>  and<br/>  on<br/> observations;<br/> Detainee<br/> <br/> Delegation<br/> observations;<br/> Corporal<br/> <br/> <br/> delegation<br/> observations.</p> |  |
| 7.  | <p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> <li>III.C. The law library shall contain the materials listed in Attachment A.</li> </ul>   | <ul style="list-style-type: none"> <li>Hardbound legal materials are generally not available, though detainees can request materials that are not available on the computer. (p.10 ¶3)</li> </ul>  | <p>Corporal<br/> <br/> delegation<br/> observations.</p>  |  |
| 8.  | <p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> <li>III.K. The facility shall permit detainees to assist other detainees in researching and preparing legal documents upon request.</li> </ul>  | <ul style="list-style-type: none"> <li><b>Although detainees housed in the same housing unit may consult with each other about legal matters, no more than one detainee may be in the same room as the computer cart at any given time, which prevents detainees from assisting each other with legal research. (p.11 ¶2)</b></li> </ul>   | <p>Corporal<br/> </p>   |  |
| 9.  | <p>Standard 9, Group Presentations on Legal Rights</p> <ul style="list-style-type: none"> <li>III.C. Detainee Notification and Attendance. At least 48 hours before a scheduled presentation, informational posters ... shall be prominently displayed in the housing units ....</li> </ul>  | <ul style="list-style-type: none"> <li>The Facility does not advertise when presentations will take place. However, the Facility requires all detainees to come to the introduction of the presentation, and they can stay for the entire session. (p.12 ¶2)</li> </ul>  | <p>Corporal<br/> </p>   |  |
| 10. | <p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> <li>III.F. Inspection of Outgoing Correspondence and Other Mail. Outgoing special correspondence will not be opened, inspected, or read.</li> </ul>  | <ul style="list-style-type: none"> <li><b>The Inmate Handbook states that “non-privileged” outgoing correspondence will be scanned and inspected, and that all outgoing mail must be presented in an unsealed condition. However, Facility staff say outgoing special correspondence is not inspected. (p.14 ¶1)</b></li> </ul>  | <p>Inmate<br/> Handbook;<br/> Corporal<br/> </p>  |  |
| 11. | <p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> <li>III.I. Postage Allowance. Indigent detainees will be permitted to mail a reasonable amount of mail each week, including at least five pieces of special correspondence and three pieces of general correspondence.</li> <li>III.J. The facility shall provide writing paper, writing implements, and envelopes at no cost to detainees</li> </ul>  | <ul style="list-style-type: none"> <li><b>Indigent detainees are only provided with three stamps every fourteen days. (p.13 ¶2)</b></li> <li><b>Supplies must be purchased from the commissary by detainees. (p.13 ¶2)</b></li> </ul>  | <p>Corporal<br/> </p>   |  |

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| 12. | Standard 13, Recreation <ul style="list-style-type: none"> <li>III.A.1. Every effort shall be made to place a detainee in a facility that provides outdoor recreation.</li> <li>III.A.3. All new or renegotiated contracts and IGSA's will stipulate that INS detainees have access to an outdoor recreation area.</li> <li>III.B.2. If only indoor recreation is available, detainees shall have access for at least one hour each day and shall have access to natural light.</li> </ul>   | <ul style="list-style-type: none"> <li><b>Women do not have access to outdoor recreation. (p.15 ¶2)</b></li> </ul>   | Corporal<br>[REDACTED] |  |
| 13. | Security and Control Standard 14, Special Management Unit (Disciplinary Segregation) <ul style="list-style-type: none"> <li>III.D.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 other safety reasons documented by the OIC.</li> </ul>   | <ul style="list-style-type: none"> <li>Detainees in disciplinary segregation have one hour every other day for recreation, and during this time they are allowed to shower and take a walk. (p.16 ¶1)</li> </ul>   | Corporal<br>[REDACTED] |  |
| 14. | Health Services Standard 2, Medical Care <ul style="list-style-type: none"> <li>III.E. Dental Treatment. An initial dental screening exam should be performed within 14 days of the detainee's arrival.</li> </ul>   | <ul style="list-style-type: none"> <li>An initial dental screening is not performed upon a detainee's arrival at the Facility. (p.17 ¶4)</li> </ul>  | Nurse [REDACTED]       |  |
| 15. | Standard 4, Detainee Classification System <ul style="list-style-type: none"> <li>III.I. The detainee handbook's section on classification will include the following: 1. An explanation of the classification levels with the conditions and restrictions applicable to each. 2. The procedures by which a detainee may appeal his/her classification.</li> </ul>   | <ul style="list-style-type: none"> <li><b>The Inmate Handbook does not explain the classification levels, the conditions and restrictions associated with each classification level, or the process by which a detainee can appeal his or her classification level. (p.19 ¶3)</b></li> </ul> | Inmate Handbook.       |  |
| 16. | Standard 18, Voluntary Work Program <ul style="list-style-type: none"> <li>I. Every facility with a work program will provide detainees the opportunity to work and earn money.</li> </ul>   | <ul style="list-style-type: none"> <li><b>ICE detainees are not allowed to participate in the Facility's voluntary work program. (p.19 ¶5)</b></li> </ul>  | Corporal<br>[REDACTED] |  |
| 17. | Standard 5, Detainee Grievance Procedures <ul style="list-style-type: none"> <li>III.A.1. Informal/Oral Grievance. ... The OIC will establish procedures for detainees to orally present the issue of concern informally .... Translating assistance shall be provided upon request.</li> <li>III.A.2. Formal/Written Grievance. The OIC must allow the detainee to submit a formal, written grievance to the facility's grievance committee. ... Illiterate, disabled, or non-English speaking detainees shall be given the opportunity to receive additional assistance upon request.</li> </ul> | <ul style="list-style-type: none"> <li><b>One detainee who speaks only Spanish stated that there are no translation services, so he must get a friend to speak with the dormitory officer on his behalf. (p.21 ¶3)</b></li> </ul>  | Detainee<br>[REDACTED] |  |

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| 18. | <p>Security and Control Standards 14, Special Management Unit (Disciplinary Segregation)</p> <ul style="list-style-type: none"> <li>III.D.17. 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.</li> </ul>  | <ul style="list-style-type: none"> <li><b>Detainees in disciplinary segregation are not allowed family visits. (p.24 ¶4)</b></li> </ul>   | <p>Corporal<br/> </p>  |  |
| 19. | <p>Standard 15, Staff-Detainee Communication.</p> <ul style="list-style-type: none"> <li>III.A.1. Policy and procedures shall be in place to ensure and document that the ICE Officer in Charge (OIC), the [AOIC] and designated department heads conduct regular unannounced (not scheduled) visits to the facility's living and activity areas ....</li> <li>III.A.2.b. The ICE Field Office Director shall devise a written schedule and procedure for weekly detainee visits by District ICE deportation staff.</li> </ul> | <ul style="list-style-type: none"> <li>According to ICE staff, ICE visits the Facility every Friday, and the day of the ICE visit is posted in the dorm room. However, the delegation did not see such a posting, and one detainee told the delegation he is not aware that ICE visits every Friday. (p.26 ¶1)</li> </ul> | <p>Officers<br/>  (g) (g)<br/> delegation observations;<br/> Detainee<br/> </p> |  |
| 20. | <p>Standard 15, Staff-Detainee Communication.</p> <ul style="list-style-type: none"> <li>III.B. All detainees shall have the opportunity to submit written questions, requests, or concerns to ICE staff ....</li> <li>III.B.3. Detainee Handbook. The handbook shall state that the detainee has the opportunity to submit written questions, requests, or concerns to ICE staff and the procedures for doing so ....</li> </ul>  | <ul style="list-style-type: none"> <li><b>There is no mention in the Inmate Handbook of the procedures to submit questions or concerns to ICE staff. (p.26 ¶3)</b></li> </ul>   | <p>Inmate Handbook.</p>   |  |

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| 21. | <p>Standard 6, Detainee Handbook</p> <ul style="list-style-type: none"> <li>▪ I. Every OIC will develop a site-specific detainee handbook to serve as an overview of ... the detention policies, rules, and procedures in effect at the facility. Every detainee will receive a copy of this handbook upon admission to the facility.</li> </ul> <p>Standard 17, Visitation</p> <ul style="list-style-type: none"> <li>▪ III.B. Notification. The facility shall provide written notification of visitation rules and hours in the detainee handbook ....</li> </ul> <p>Standard 4, Detainee Classification System</p> <ul style="list-style-type: none"> <li>▪ III.I. The detainee handbook's section on classification will include the following: 1. An explanation of the classification levels with the conditions and restrictions applicable to each. 2. The procedures by which a detainee may appeal his/her classification.</li> </ul> <p>Standard 15, Staff-Detainee Communication.</p> <ul style="list-style-type: none"> <li>▪ III.B.3. Detainee Handbook. The handbook shall state that the detainee has the opportunity to submit written questions, requests, or concerns to ICE staff and the procedures for doing so ....</li> </ul> | <ul style="list-style-type: none"> <li>▪ <b>There is nothing in the Inmate Handbook regarding legal visitation, access to legal materials, the rules regarding legal mail, information on the classification system, or procedures for submitting questions and concerns to ICE staff. (p.27 ¶2)</b></li> <li>▪ <b>Detainees do not receive a copy of the Inmate Handbook. (p.27 ¶1)</b></li> </ul> | <p>Inmate Handbook.</p> <p>Corporal</p> |  |
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FIRM / AFFILIATE OFFICES

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|-------------|-------------------|
| Boston      | New York          |
| Brussels    | Northern Virginia |
| Chicago     | Orange County     |
| Frankfurt   | Paris             |
| Hamburg     | San Diego         |
| Hong Kong   | San Francisco     |
| London      | Shanghai          |
| Los Angeles | Silicon Valley    |
| Milan       | Singapore         |
| Moscow      | Tokyo             |
| New Jersey  | Washington, D.C.  |

MEMORANDUM

August 9, 2006

**To:** John P. Torres, Acting Director, Office of Detention and Removal, Immigration and Customs Enforcement

**From:** American Bar Association Delegation to the Kenosha County Detention Center<sup>1</sup>

**Copies to:** (b)(6), Associate Director, ABA Commission on Immigration

**Subject:** Report on Observational Tour of the Kenosha County Detention Center, Kenosha, Wisconsin

This memorandum summarizes and evaluates information gathered at Kenosha County Detention Center (“KCDC” or “the Facility”) in Kenosha, Wisconsin, during the delegation’s July 13, 2006 visit to the Facility. The information was gathered via observation of the Facility by the delegation, interviews with three detainees, and discussions with KCDC and Immigration and Customs Enforcement (“ICE”) personnel.

**I. ICE DETENTION STANDARDS**

In November 2000, the Immigration and Naturalization Service (INS),<sup>2</sup> promulgated the “*INS Detention Standards*” to ensure the “safe, secure and humane treatment” of immigration detainees. The thirty-eight *Standards* contained in the Detention Operations Manual cover a broad spectrum of issues ranging from visitation policies to grievance procedures and food service. These *Standards* apply to ICE-operated detention centers and other facilities that house immigration detainees pursuant to a contract or intergovernmental service agreement (“IGSA”).

The *Detention Standards* (the “*Standards*”) went into effect at ICE-operated detention facilities on January 1, 2001. ICE intended to phase in the *Standards* at all of its contract and IGSA facilities by December 31, 2002. The *Standards* constitute a “floor” rather than a “ceiling” for the treatment of immigration detainees. In other words, they are designed to establish the minimum requirements to which ICE must adhere in its facilities. Each Field

<sup>1</sup> The delegation was comprised of attorneys and summer associates from the Chicago office of Latham & Watkins LLP, including (b)(6) Rabkin.

<sup>2</sup> Effective March 1, 2003, the INS ceased to exist as an agency of the Department of Justice. The INS’ immigration enforcement functions were transferred to Immigration and Customs Enforcement (“ICE”), a division of the newly-created Department of Homeland Security (“DHS”).

Office or Officer-in-Charge has discretion to promulgate policies and practices affording ICE detainees more enhanced rights and protections, beyond those provided for by the *Standards*.

## II. INTRODUCTION

### A. The Delegation's July 13<sup>th</sup> Visit

On Thursday, July 13, 2006, the members of our delegation met with several members of KCDC's staff and two representatives from ICE. Corporal (b)(6), (b)(7)c Lieutenant (b)(6), (b)(7)c and Deportation Officers (b)(6), (b)(7)c led our delegation on a tour of the facilities. The delegation also met with other KCDC personnel along the tour. The delegation appreciates the cooperation of these individuals. They were direct and accommodating during our tour of the Facility and in response to post-tour requests for additional information.

Our report is based on the discussions we had with these KCDC and ICE employees, as well as observations of the Facility and interviews with three immigration detainees. In many instances, the detainees' reports were compatible with statements made by Facility personnel and/or our observations. In such cases, the delegation was able to more accurately determine whether KCDC policy and procedures successfully met the *Standards*.

### B. General Information About the Kenosha County Detention Center

The Kenosha County Detention Center houses federal immigration detainees according to an intergovernmental service agreement ("IGSA") with ICE. According to KCDC personnel, the Facility has the capacity to hold over 400 individuals, with a current population of 388, of which 93 are immigration detainees.<sup>3</sup>

KCDC houses mostly men. At the time of our visit the Facility personnel estimated that there were four women immigration detainees housed there.<sup>4</sup> Further, the Facility personnel said that the Facility housed immigration detainees from many different countries, but the majority were from Mexico.<sup>5</sup>

## III. IMPLEMENTATION OF LEGAL ACCESS STANDARDS

### A. Legal Access/Visitation

#### 1. Visitation by Attorneys

The *Standards* require facilities permit legal visitation seven days per week.<sup>6</sup> Attorneys should have access to their clients eight hours per day during the week and four hours per day during the weekend and on holidays and may proceed through meals on regular business

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<sup>3</sup> Notes of delegation member (b)(6), on conversation with Corporal (b)(6), (b)(7)c  
<sup>4</sup> Notes of delegation member (b)(6), on conversation with Corporal (b)(6), (b)(7)c  
<sup>5</sup> Notes of delegation member (b)(6), on conversation with Corporal (b)(6), (b)(7)c  
<sup>6</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

days.<sup>7</sup> The visits must be private, and should not be interrupted for head counts.<sup>8</sup> Facilities should establish a procedure by which attorneys may call to determine whether a detainee is housed in a particular facility.<sup>9</sup> Detention centers should permit visits from attorneys, other legal representatives, legal assistants, and interpreters.<sup>10</sup> The detainee handbook should contain visitation rules and hours.<sup>11</sup>

**KCDC substantially meets this section of the *Standards*, but attorney visits are interrupted for meals, and the Inmate Handbook does not address legal visits.**

Attorneys may visit detainees seven days per week, and legal visiting is available eight hours per day.<sup>12</sup> Legal visitation hours are from 8:30 a.m. to 11 a.m., 1 p.m. to 4 p.m., and 6 p.m. to 8:30 p.m.<sup>13</sup> Legal visits are “contact” and take place in attorney visiting rooms.<sup>14</sup> Attorney visits are private, unless the attorney requests that an officer be present in the room during the visit.<sup>15</sup> Legal visits can be visually monitored by facility staff through the glass walls of the visitation rooms; there is no audio overhear ability and legal visits are not recorded.<sup>16</sup> Inmates are subject to random pat-down searches following attorney visits.<sup>17</sup>

There are no limits on the length of time that a lawyer may visit with a detainee; however, legal visits may not take place during lunch.<sup>18</sup> If the legal visit is running into lunch, the attorney will be asked to stop the interview and may return after lunch to continue the visit.<sup>19</sup> Legal visits are not disturbed for head counts, and arrangements are made to count detainees who are in attorney visits.<sup>20</sup> Legal representatives, legal assistants and interpreters may also visit detainees, as long as a letter is sent in advance on formal letterhead so the institution can verify the visitor prior to their arrival.<sup>21</sup>

Attorneys may also have telephone conferences with their clients.<sup>22</sup> In order to set up a legal telephone call, the attorney must request one at least 24 hours in advance, although exceptions are made in emergencies.<sup>23</sup> These legal phone calls are not monitored.<sup>24</sup>

<sup>7</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

<sup>8</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.9.

<sup>9</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.6.

<sup>10</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.3.

<sup>11</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.B.

<sup>12</sup> Notes of delegation member (b)(6) on observation of legal visiting schedule and conversation with Corporal (b)(6), (b)(7)c

<sup>13</sup> Notes of delegation member (b)(6) on observation on observation of legal visitation schedule and conversation with Corporal (b)(6), (b)(7)c

<sup>14</sup> Notes of delegation member on observation and conversation with Corporal (b)(6), (b)(7)c

<sup>15</sup> Notes of delegation member on conversation with Corporal (b)(6), (b)(7)c (b)(6), (b)(7)c

<sup>16</sup> Notes of delegation member on observation and conversation with Corporal (b)(6), (b)(7)c

<sup>17</sup> Notes of delegation member on conversation with Corporal (b)(6), (b)(7)c

<sup>18</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>19</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>20</sup> Notes of delegation member on conversation with Corporal (b)(6), (b)(7)c

<sup>21</sup> Notes of delegation member on conversation with Corporal (b)(6), (b)(7)c

<sup>22</sup> Notes of delegation member on conversation with Corporal (b)(6), (b)(7)c

<sup>23</sup> Notes of delegation member on conversation with Corporal (b)(6), (b)(7)c

Attorneys may call KCDC’s main number to find out if their client is housed at the facility.<sup>25</sup> KCDC will inform the attorney whether their client is being held at the institution, but may not provide any additional information about the detainee over the phone.<sup>26</sup> Attorneys visiting detainees are required to show a bar card to enter the institution.<sup>27</sup> Attorneys are not searched before or after legal visits, but must pass through a metal detector upon entering the facility.<sup>28</sup>

None of the policies governing legal visits is contained in the Inmate Handbook.<sup>29</sup> However, the legal visiting hours are posted clearly in the main lobby of the institution.<sup>30</sup> Inmates in administrative and disciplinary segregation are allowed legal visits.<sup>31</sup>

## 2. Visitation by Family and Friends

The *Standards* suggest that facilities establish written visitation hours and procedures, and make them available to the public.<sup>32</sup> This includes procedures for handling incoming money for detainees.<sup>33</sup> The visiting area is to be “appropriately furnished and arranged, and as comfortable and pleasant as practicable.”<sup>34</sup> Visiting hours shall be set on Saturdays, Sundays, and holidays, and the *Standards* encourage facilities to accommodate visitors at other times when they are facing a particular hardship.<sup>35</sup> Visits should be at least 30 minutes long, and longer when possible.<sup>36</sup> If a facility does not provide for visits from minors, ICE should arrange for visits with children or stepchildren within the detainee’s first 30 days at the facility, with continuing monthly visits.<sup>37</sup> Visits should be granted to detainees in both disciplinary and administrative segregation unless a detainee violates the visitation rules or threatens the security of the visitation room.<sup>38</sup>

**KCDC substantially meets this section of the *Standards*. However, visits are generally for only 20 to 30 minutes, are only permitted one day per week, and are only permitted on one weekend day (Sundays for women).** The visitation schedule and policies are clearly posted in the main lobby of the institution<sup>39</sup> and are available over the telephone.<sup>40</sup> For

<sup>24</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]

<sup>25</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]

<sup>26</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>27</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]

<sup>28</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]

<sup>29</sup> Kenosha County Detention Center Inmate Handbook [hereinafter Inmate Handbook], p. 3.

<sup>30</sup> Observations of delegation member (b)(6)

<sup>31</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>32</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.A & B.

<sup>33</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.D.

<sup>34</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.G.

<sup>35</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>36</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>37</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.2.

<sup>38</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.5.

<sup>39</sup> Observations of delegation member (b)(6)

<sup>40</sup> Notes of delegation member (b)(6) on telephone call to (262) (b)(6)

men, visiting hours are from 6 p.m.–8 p.m. on Tuesday through Saturday, and from 8 a.m.–11 a.m. on Sunday.<sup>41</sup> For women, the visiting hours are from 6 p.m.–8 p.m. on Monday and from 1 p.m.–3 p.m. on Sunday.<sup>42</sup>

The information in the Inmate Handbook differs from the information that the Facility staff provided during the tour.<sup>43</sup> The Inmate Handbook explains that “[g]eneral visiting will be conducted at regular intervals during the week.... A standard visit will be 30 minutes. Duration and frequency of visits may be limited to accommodate inmate populations.”<sup>44</sup> Similarly, the visitation schedule posted in the lobby states that family visits may be up to 30 minutes.<sup>45</sup> However, facility staff informed the delegation that detainees are only allowed one family visit a week, and these family visits last approximately 20 to 30 minutes each.<sup>46</sup>

The restrictions on family visitation allowing for only one visit per week lasting between 20 to 30 minutes, and only allowing family visits on one weekend day, Sundays, for women, does not comply with the *Standards*.<sup>47</sup> The *Standards* specifically encourage detention facilities to provide visiting hours on both days of the weekend where practicable.<sup>48</sup> Additionally, the *Standards* specify that family visits be 30 minutes at the minimum, and encourage longer visits where possible.<sup>49</sup>

All family visits are “non-contact” and take place in small cubicles with plexiglass dividers that separate the detainee from their visitors.<sup>50</sup> The family visiting area is not particularly comfortable or pleasant, as required by the *Standards*.<sup>51</sup> Minors may visit detainees as long as they are accompanied by an adult.<sup>52</sup> Family visitors are not searched, but are required to pass through a metal detector upon entering the facility.<sup>53</sup> All inmates are pat-searched following family visits.<sup>54</sup>

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<sup>41</sup> Notes of delegation member (b)(6) on observation of visiting schedule and conversation with Corporal (b)(6), (b)(7)c

<sup>42</sup> Notes of delegation member (b)(6) on observation of visiting schedule and conversation with Corporal (b)(6), (b)(7)c

<sup>43</sup> Inmate Handbook, p. 3; notes of delegation member (b)(6) on observation of visiting schedule and conversation with Corporal (b)(6), (b)(7)c

<sup>44</sup> Inmate Handbook, p. 3.

<sup>45</sup> Notes of delegation member (b)(6) on observation of visitation schedule.

<sup>46</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>47</sup> Notes of delegation member (b)(6) on observation of visitation schedule and conversation with Corporal (b)(6), (b)(7)c

<sup>48</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>49</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>50</sup> Notes of delegation member (b)(6) on observation of visiting schedule and conversation with Corporal (b)(6), (b)(7)c

<sup>51</sup> Observations of delegation member (b)(6)

<sup>52</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>53</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>54</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

Inmates are informed of the visiting procedures in an orientation videotape, and a visitation schedule is also posted on each unit.<sup>55</sup> Inmates do not need to create a list of visitors in order to receive family visits.<sup>56</sup> Inmates in short term disciplinary segregation do not receive family visits.<sup>57</sup> The staff determines whether inmates in longer term disciplinary segregation are allowed family visits on a case-by-case basis.<sup>58</sup>

Visitors may leave money for a detainee at the facility or send money to the detainee through the mail.<sup>59</sup> Only cash and money orders will be accepted; personal checks will be considered contraband and placed in the inmate’s stored personal property.<sup>60</sup> Inmates receive a receipt for all money placed in their commissary accounts.<sup>61</sup>

**B. Telephone Access**

**1. General Requirements**

The policy behind the telephone access standard is that all ICE detainees should have “reasonable and equitable access” to telephones.<sup>62</sup> The *Standards* suggest that detention facilities should have one working phone per twenty-five inmates.<sup>63</sup> In order to ensure access, the telephones should be kept in working order and inspected regularly by Facility staff.<sup>64</sup> Each detainee should also be informed in writing of the telephone access rules upon admittance, and the rules should be posted in the dorms.<sup>65</sup>

**KCDC substantially meets this section of the *Standards*, although detainees are not given telephone access rules when they are admitted.** There are 6 to 8 telephones in each of the housing units which hold up to 64 detainees per unit.<sup>66</sup> This exceeds the ratio recommended by the *Standards*. It was not clear whether the phones are inspected regularly; however, the phones appeared to all be in working order.<sup>67</sup> In addition, several were tested and were working.<sup>68</sup> The phones are available to the detainees during waking hours when the detainees are in the dorms, and the detainees do not have to ask permission to use the phones.<sup>69</sup>

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<sup>55</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]  
<sup>56</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]  
<sup>57</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c  
<sup>58</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]  
<sup>59</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]  
<sup>60</sup> Inmate Handbook, p. 1; Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c  
<sup>61</sup> Inmate Handbook, p. 1; Notes of delegation member [redacted] on conversation with Corporal [redacted]  
<sup>62</sup> Detention Operations Manual, Detainee Services, Standard 16, Section I.  
<sup>63</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.C.  
<sup>64</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.D.  
<sup>65</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.B.  
<sup>66</sup> Notes of delegation member (b)(6) on observation and conversation with Corporal (b)(6), (b)(7)c  
<sup>67</sup> Observations of delegation member (b)(6)  
<sup>68</sup> Observations of delegation member [redacted]  
<sup>69</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

The detainees appear to have access to the phones as recommended by the *Standards*. Detainees are not given the telephone access rules in writing, but the rules are posted in the dorms.<sup>70</sup>

## 2. Direct vs. Collect Calls

Although the Facility may generally limit detainees to making collect calls, in certain situations detainees should have the opportunity to make direct calls.<sup>71</sup> Specifically, detainees should be able to make direct calls to the local immigration court, to Federal and state courts, to consular officials, legal service providers and to government offices.<sup>72</sup> In addition, detainees should be allowed to make direct calls in case of a personal or family emergency.<sup>73</sup> The facility should enable the detainees to make calls to free legal service providers and consulates at no charge to either party.<sup>74</sup>

### **KCDC appears to meet this section of the *Standards*, but calls are expensive.**

Generally detainees may make only collect calls from the phones in the dorms.<sup>75</sup> The phones do have pre-programmed numbers to the consulate and to local pro bono legal representatives which the detainees may use free of charge.<sup>76</sup> It was not clear when or if the detainees are allowed to make direct calls. Detainee (b)(6), (b)(7)c stated that he makes collect calls to both his attorney and to his wife.<sup>77</sup> Detainee (b)(6), (b)(7)c stated that phone calls cost a lot of money and it is very expensive for him to talk to his wife in Chicago.<sup>78</sup> This sentiment was reiterated by the other detainees interviewed, who both said it cost upwards of \$20 a phone call, which makes it difficult to talk to their families.<sup>79</sup>

## 4. Privacy for Telephone Calls on Legal Matters

Detainees should have privacy to use the phone for legal matters,<sup>80</sup> and while most calls may be monitored, detainees should have the option to have legal phone calls which are not monitored.<sup>81</sup> Detainees should be informed that their calls are being monitored.<sup>82</sup>

**KCDC meets this section of the *Standards*.** Detainees are informed that their calls are being monitored by a recording which plays at the beginning of each phone call.<sup>83</sup> The

<sup>70</sup> Notes of delegation member (b)(6) on observation and conversation with Corporal (b)(6), (b)(7)c

<sup>71</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>72</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.1-5.

<sup>73</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.6.

<sup>74</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>75</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>76</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>77</sup> Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

<sup>78</sup> Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

<sup>79</sup> Notes of delegation members (b)(6) on conversations with detainees (b)(6), (b)(7)c

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

Detention Operations Manual, Detainee Services, Standard 16, Section III.J.

<sup>81</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.K.

<sup>82</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.K.

<sup>83</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

monitoring can be switched off, however, for legal phone calls.<sup>84</sup> The phones are not very private, in that they are located in the middle of the dormitory.<sup>85</sup> Detainees can request to have a private phone call with their attorney, and a private phone call may also be requested by the attorney.<sup>86</sup> To request a private phone call, the attorney has to fax a request to the Facility 24 hours before the requested call, and the officers will then set up the call in a private room.<sup>87</sup>

## 5. Incoming Calls and Messages

The *Standards* require that facilities take messages for detainees, and deliver the messages as promptly as possible.<sup>88</sup> Emergency messages should be delivered to the detainee immediately and should include the caller's name and telephone number. The detainee should be permitted to return an emergency call as soon as possible.<sup>89</sup>

**KCDC has not met this section of the *Standards*. KCDC does not generally take messages for the detainees.**<sup>90</sup> If an emergency call comes in, the officer on duty will take down the caller's name and phone number, as well as the details of the emergency, such as a hospital where a family member is located.<sup>91</sup> The officer will then verify the details of the emergency, if possible, by calling the hospital to confirm.<sup>92</sup> If the emergency is verified, the officer will then pass along the message to the clergy located in the Facility.<sup>93</sup> The clergy will then meet with the detainee and deliver the message in person.<sup>94</sup> The facility also does not generally take or deliver messages from attorneys, unless the attorney informs them that it is an emergency situation, in which case the above procedure will be followed.<sup>95</sup> They will, however, agree to set up a conference call between the attorney and the detainee if the attorney so requests.<sup>96</sup>

### C. Access to Legal Materials.

All facilities with detainees "shall permit detainees access to a law library, and provide legal materials, facilities, equipment and document copying privileges, and the opportunity to prepare legal documents."<sup>97</sup>

<sup>84</sup> Notes of delegation member (b)(6) on conversation with Corporal

<sup>85</sup> Observations of delegation member (b)(6)

<sup>86</sup> Notes of delegation member (b)(6) on conversation with Corporal

<sup>87</sup> Notes of delegation member (b)(6) on conversation with Corporal

<sup>88</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

<sup>89</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

<sup>90</sup> Notes of delegation member (b)(6), (b)(7)c on conversation with Corporal

<sup>91</sup> Notes of delegation member on conversation with Corporal

<sup>92</sup> Notes of delegation member on conversation with Corporal

<sup>93</sup> Notes of delegation member (b)(6) on conversation with Corporal

<sup>94</sup> Notes of delegation member on conversation with Corporal

<sup>95</sup> Notes of delegation member on conversation with Corporal

<sup>96</sup> Notes of delegation member on conversation with Corporal

<sup>97</sup> Detention Operations Manual, Detainee Services, Standard 1, Section I.

**KCDC has not met most of the sections of the *Standards* regarding access to library and legal materials.**

**1. Access to the Library**

The *Standards* require that each facility “shall provide a law library in a designated room with sufficient space to facilitate detainees’ legal research and writing,” and that “the library shall be large enough to provide reasonable access to all detainees who request its use.”<sup>98</sup> The *Standards* further suggest that the library “shall contain a sufficient number of tables and chairs in a well-lit room.”<sup>99</sup>

The *Standards* suggest that each facility shall have a flexible schedule for law library use that permits all detainees, regardless of housing or classification, to use the law library on a regular basis.<sup>100</sup> Each detainee shall be permitted to use the law library for a minimum of five hours per week.<sup>101</sup>

**KCDC has not met this section of the *Standards*. KCDC has no law library<sup>102</sup>.** KCDC has a computer cart which contains a desktop PC and a printer.<sup>103</sup> The computer allows detainees to access certain legal reference sources through Loislaw.<sup>104</sup> The computer cart has wheels, which allows it to be moved between rooms, and the cart is often placed in a multipurpose room.<sup>105</sup> The multipurpose rooms contain tables, chairs, and sufficient lighting, but no books or legal references other than those materials accessible on the computer.<sup>106</sup>

The computer cart is generally accessible in one of the multipurpose rooms for detainees between the hours of 9:00 a.m. and 11:00 a.m. each morning and between 7:00 p.m. and 9:00 p.m. each evening, a total of four hours per day or twenty-eight hours per week.<sup>107</sup> There is only one computer cart, however, which limits use of the computer to one person at a given time.<sup>108</sup> The same computer cart is shared between ICE detainees and individuals who are being held in custody on behalf of Kenosha County authorities, with ICE detainees having priority over its use.<sup>109</sup>

Detainee (b)(6), (b)(7) stated that he was never informed by the Facility staff of the computer cart.<sup>110</sup> He indicated that he learned about it from another detainee.<sup>111</sup> In the short-

<sup>98</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

<sup>99</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

<sup>100</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>101</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>102</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7) and observations.

<sup>103</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7) and observations.

<sup>104</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7) and observations.

<sup>105</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7) and observations.

<sup>106</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7) and observations.

<sup>107</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7) and observations.

<sup>108</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7) and observations.

<sup>109</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7) and observations.

<sup>110</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6)

<sup>111</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6)

term, until a law library can be instituted, the delegation suggests that detainees be told upon arrival of the availability of the computer cart for legal research.

## 2. Materials Identified in the Detention Standards

The *Standards* require that all facility law libraries contain the materials listed in Attachment A to the chapter on *Access to Legal Materials*.<sup>112</sup> These materials must be updated regularly, and information must be added on significant regulatory and statutory changes regarding detention and deportation of aliens in a timely manner.<sup>113</sup> Damaged or stolen materials must be promptly replaced.<sup>114</sup>

**It is unclear whether KCDC meets this section of the Standards.** KCDC provides its immigration detainees with access to Loislaw through the computer on the mobile computer cart, but hardbound legal resources are generally not available.<sup>115</sup> While Loislaw provides access to numerous legal materials, as well as current statutory and regulatory information, it is unclear whether most of the secondary resources listed as required by Attachment A to the chapter on *Access to Legal Materials* are available through Loislaw on KCDC's mobile computer cart.<sup>116</sup> A copy of Black's Law Dictionary is available to detainees upon request.<sup>117</sup> Detainees can request additional materials that are not available on the computer by submitting a request to KCDC's Accounting Specialist.<sup>118</sup>

## 3. Computer Access, Equipment and Holdings

The *Standards* require that facility law libraries provide an adequate number of typewriters and/or computers, writing implements, paper, and office supplies to enable detainees to prepare documents for legal proceedings.<sup>119</sup>

**KCDC substantially meets this section of the Standards, although one computer may be inadequate for the population of 388 inmates, including 93 detainees, even though detainees are given priority.**<sup>120</sup> In addition to the computer cart, KCDC provides detainees with access to writing implements, paper, and other office supplies to enable detainees to prepare documents for legal proceedings.<sup>121</sup> Unless a detainee is classified by the facility as indigent, he or she must pay for these supplies.<sup>122</sup>

<sup>112</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

<sup>113</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

<sup>114</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.F.

<sup>115</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6) and observations.

<sup>116</sup> Observations of delegation member (b)(6)

<sup>117</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6)

<sup>118</sup> Observations of delegation member (b)(6)

<sup>119</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.B. (b)(6), (b)(7)c

<sup>120</sup> See *supra* Sections II.B and C.1.

<sup>121</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6)

<sup>122</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6)

#### 4. Assistance from Other Detainees

The *Standards* require that each facility permit detainees to assist other detainees in researching and preparing legal documents upon request, except when such assistance poses a security risk.<sup>123</sup>

**Detainees at KCDC are unable to assist each other with legal research.** Corporal (b)(6), (b)(7)c indicated that detainees housed in the same unit are free to consult with each other regarding legal matters.<sup>124</sup> However, no more than one detainee may be in the same room as the computer cart at any given time, due to security concerns—a policy which prevents detainees from actively assisting other detainees with legal research.<sup>125</sup> We recommend that this policy be reevaluated in order to permit assistance when possible.

#### 5. Photocopies

The *Standards* provide that each facility shall ensure that detainees can obtain photocopies of legal materials, when such copies are reasonable and necessary for legal proceedings involving the detainee.<sup>126</sup> Enough copies must be provided so that a detainee can fulfill court procedural rules and retain a copy for his records.<sup>127</sup> Facility personnel may not read a document that on its face is clearly related to a legal proceeding involving the detainee.<sup>128</sup>

**KCDC meets this section of the *Standards*.** Detainees at KCDC may make photocopies for twenty-five cents per copy.<sup>129</sup> Detainees classified as indigent may obtain photocopies of essential legal documents for free.<sup>130</sup>

#### D. Group Rights Presentations

The *Standards* provide that facilities holding ICE detainees “shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures, consistent with the security and orderly operation of each facility.”<sup>131</sup> Informational posters are to be properly displayed in the housing units at least forty-eight hours in advance of a scheduled presentation.<sup>132</sup> While presentations are open to all detainees, the facility “may limit the number of detainees at a single session.”<sup>133</sup> “The facility shall select and provide an environment conducive to the presentation, consistent with

<sup>123</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.K.

<sup>124</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>125</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>126</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>127</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>128</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>129</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>130</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>131</sup> Detention Operations Manual, Detainee Services, Standard 9, Section I.

<sup>132</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

<sup>133</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

security.”<sup>134</sup> In addition, detainees shall have regular opportunities to view an “INS-approved videotaped presentation on legal rights.”<sup>135</sup>

**The Facility substantially meets this section of the *Standards*. Detainees are not notified in advance of presentations, but this does not appear to interfere with their participation.** According to Facility personnel, there are no restrictions on group rights presentations.<sup>136</sup> The Facility’s personnel informed us that The Midwest Immigrant and Human Rights Center (MIHRC) comes approximately once every six months to conduct oral presentations to detainees about the U.S. legal system.<sup>137</sup> The presentations occur in the indoor gymnasium, which is conducive to effective presentations since it is a spacious, well-lit environment that can accommodate a large group.<sup>138</sup> Although the facility does not advertise when presentations will take place, the Facility requires all detainees to come to the introduction of the presentation, at which time they can decide if they want to stay for the entire session.<sup>139</sup> The presentations are open to all detainees including those in segregation.<sup>140</sup> At the presentations, MIHRC sets up three tables at opposite sides of the gymnasium in order to divide the instructional session into English, Spanish and Chinese.<sup>141</sup> Facility personnel informed us that the presentations usually take 3.5 hours and individual detainees have an opportunity to speak with the presenters.<sup>142</sup>

Furthermore, the “Know Your Rights” video is aired on the television inside the dormitories every Monday.<sup>143</sup> The “Know Your Rights” video is played in both English and Spanish.<sup>144</sup>

#### IV. OTHER PROVISIONS OF THE ICE DETENTION STANDARDS

##### A. Correspondence and Other Mail

The *Standards* suggest that all facilities “ensure that detainees send and receive correspondence in a timely manner.”<sup>145</sup> Detainees should be made aware of the policies concerning mail and other correspondence in the detainee handbook and posted in the facility.<sup>146</sup> Facilities should not limit the amount of mail a detainee may sent out at his own expense.<sup>147</sup>

<sup>134</sup> Detention Operations Manual, Detainee Services, Standard 9, III.E.

<sup>135</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.I.

<sup>136</sup> Notes of delegation member

(b)(6)

on conversation with Corporal

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

<sup>137</sup> Notes of delegation member

on conversation with Lieutena

<sup>138</sup> Notes of delegation member

on conversation with Corporal

<sup>139</sup> Notes of delegation member

on conversation with Corporal

<sup>140</sup> Notes of delegation member

on conversation with Corporal

<sup>141</sup> Notes of delegation member

on conversation with Corporal

<sup>142</sup> Notes of delegation member

on conversation with Corporal

<sup>143</sup> Notes of delegation member

on conversation with Corporal

and Detainee (b)(6)

(b)(6)

<sup>144</sup> Notes of delegation member

(b)(6)

on conversation with Corporal

<sup>145</sup> Detention Operations Manual, Detainee Services, Standard 3, Section I.

<sup>146</sup> Detention Operations Manual, Detainee Services, Standard 3, Section I and III.B.

<sup>147</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.A.

Indigent detainees should be allowed to mail, at government expense, a reasonable amount of mail, defined in the *Standards* as five pieces of special correspondence and three pieces of personal correspondence each week.<sup>148</sup> In addition, the facility shall provide writing paper, writing implements and envelopes at no cost to detainees.<sup>149</sup> The facility should have in place policies concerning acceptance of packages.<sup>150</sup>

**KCDC does not fully meet this section of the *Standards*: detainees must purchase supplies, and indigent detainees do not receive adequate stamps.** Correspondence is sent out and received in a timely manner by detainees.<sup>151</sup> Mail is date stamped when it arrives at the facility and is delivered in the dorms each evening.<sup>152</sup> Detainees are not allowed to receive packages.<sup>153</sup> The Inmate Handbook clearly explains what the detainees are and are not allowed to receive.<sup>154</sup> Supplies must be purchased by detainees from the facility commissary.<sup>155</sup> Indigent detainees are provided with paper and pens, but they are only provided with three stamps every fourteen days.<sup>156</sup> The staff stated that sometimes if indigent detainees need more supplies or stamps, they ask the members of the clergy who work at the facility who sometimes have extra supplies.<sup>157</sup> There is no limit to the amount of mail which detainees may send out at their own expense.<sup>158</sup> There is also no limit on the amount of special correspondence which indigent detainees may send out.<sup>159</sup>

### 1. Inspection of mail

The *Standards* suggest that each facility develop its own policies regarding the inspection of incoming mail to search for contraband.<sup>160</sup> Special correspondence mail may be physically inspected for contraband in the presence of the detainee, but cannot be read by facility staff.<sup>161</sup> The *Standards* recommend that any such inspection of special correspondence be in the presence of the detainee.<sup>162</sup> Outgoing general correspondence may be inspected only if the addressee is another inmate or if there is reason to believe that such mail may present a threat to the facility.<sup>163</sup> Outgoing legal correspondence may not be opened or inspected.<sup>164</sup>

<sup>148</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.I.

<sup>149</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.J.

<sup>150</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.D.

<sup>151</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>152</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>153</sup> Inmate Handbook, p. 1.

<sup>154</sup> Inmate Handbook, p. 1-2 (informing detainees that unauthorized content or contraband will not be accepted and clearly defining what is unauthorized content).

<sup>155</sup> Notes of delegation member (b)(6), (b)(7)c on conversation with Corporal (b)(6), (b)(7)c and interview with

<sup>156</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>157</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>158</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>159</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>160</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.E.1.

<sup>161</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

<sup>162</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.E.2.

<sup>163</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.F.1.

**It is unclear whether KCDC meets this section of the *Standards*: facility staff indicated that they follow the *Standards*, but information provided in the Handbook partially conflicts with that provided by facility staff.** The Inmate Handbook states the policy regarding inspection of mail. The handbook states that “KCDC officers will scan and inspect all non-privileged, incoming and outgoing correspondence.”<sup>165</sup> The handbook does not define privileged or non-privileged mail. The handbook also says that *all* outgoing mail must be presented in an unsealed condition, and that “outgoing and incoming mail will be scanned for unauthorized content and inspected for contraband.”<sup>166</sup> Facility staff said that only outgoing mail which is addressed to another inmate is inspected.<sup>167</sup> Facility staff said that incoming special correspondence mail is scanned only for physical contraband, and that outgoing special correspondence is not inspected.<sup>168</sup>

## 2. Contraband

The *Standards* state that “incoming and outgoing general correspondence and other mail may be rejected...to protect the security, good order, or discipline of the institution; to protect the public; or to deter criminal activity.”<sup>169</sup> Policies should be put in place to inform the detainees of the policy regarding the rejection of incoming or outgoing mail.<sup>170</sup> Detainees should be informed when mail is rejected and contraband is withheld, and a log should be made reflecting the contraband received and what was done with it.<sup>171</sup>

**KCDC meets this section of the *Standards*.** The Inmate Handbook specifically lists several items which will not be accepted.<sup>172</sup> Facility staff stated that when contraband is received, it is usually withheld and notice is provided to the detainee.<sup>173</sup> The detainee then has the option of either sending the contraband back to the sender, or, assuming the contraband is not illegal, can have the contraband placed in storage with their personal property, to be held until they are released from the facility.<sup>174</sup>

### B. Recreation

The *Standards* require that all detainees have access to recreation “under conditions of security and supervision that protect their safety and welfare.”<sup>175</sup> Detainees should be housed in facilities with outdoor recreation.<sup>176</sup> If a facility only provides indoor recreation, detainees

<sup>164</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.F.2.

<sup>165</sup> Inmate Handbook, p.1.

<sup>166</sup> Inmate Handbook, p. 2.

<sup>167</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]

<sup>168</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]

<sup>169</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.G.

<sup>170</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.G.

<sup>171</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.G-H. [REDACTED]

<sup>172</sup> Inmate Handbook, pp. 1-2.

<sup>173</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]

<sup>174</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]

<sup>175</sup> Detention Operations Manual, Detainee Services, Standard 13, Section I.

<sup>176</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.A.

must have access for at least one hour per day, including exposure to natural light.<sup>177</sup> Detainees should have access to “fixed and movable equipment,” including opportunities for cardiovascular exercise, and games and television in dayrooms.<sup>178</sup> Recreation must be provided to detainees in disciplinary segregation, absent compelling security or safety reasons documented by the OIC.<sup>179</sup>

**KCDC does not meet this section of the Standards; women do not have access to outdoor recreation.** KCDC has two types of indoor recreation rooms: a gym and a dayroom.<sup>180</sup> Additionally, the Facility has an outdoor recreation area with a gated roof, however, this area is only available to men.<sup>181</sup> Men are allowed access to the outdoor facility on a rotating basis which allows them to be outside for up to three or four hours a day.<sup>182</sup> The outdoor area is only open to men because it is located in between two male housing units that contain windows giving the male inmates and detainees visual access to the area.<sup>183</sup> It seems that women could have access to the outdoor recreation area if the men’s visual access to this area were temporarily blocked.<sup>184</sup>

During inclement weather, the inmates and detainees are given the option of using the indoor gym facility instead of the outdoor area.<sup>185</sup> There are basketball hoops in the gym facility but the detainees and inmates are not provided balls because there was a high incident of broken ankles from playing basketball.<sup>186</sup> The detainees have access to an exercise bike which they can sign up to use.<sup>187</sup> There is no additional exercise equipment available to the detainees or inmates.<sup>188</sup> Detainee (b)(6), (b)(7)c confirmed that the detainees are given substantial access to the outdoor recreation facility and that the exercise bike is available for use.<sup>189</sup>

When the inmates and detainees are not in the outdoor or gym facilities, they are in the day room.<sup>190</sup> The dayrooms are common rooms, connected to the sleeping areas, where the detainees can watch television, play cards and board games on game top tables, and socialize with each other.<sup>191</sup> The detainees have access to sunlight in the dayrooms.<sup>192</sup>

<sup>177</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

<sup>178</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.G.

<sup>179</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.13.

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|---|--|--|
| <sup>180</sup> Notes of delegation member |  | on conversation with Corporal (b)(6), (b)(7)c                          |
| <sup>181</sup> Notes of delegation member |  | on observation of KCDC and conversation with Corporal                  |
| <sup>182</sup> Notes of delegation member |  | on conversation with Corporal  |
| <sup>183</sup> Notes of delegation member |  | on conversation with Corporal  |
| <sup>184</sup> Notes of delegation member |  | on observation of KCDC.  |
| <sup>185</sup> Notes of delegation member |  | on conversation with Corporal  |
| <sup>186</sup> Notes of delegation member |  | on conversation with Corporal  |
| <sup>187</sup> Notes of delegation member |  | on conversation with Corporal  |
| <sup>188</sup> Notes of delegation member |  | on observation of KCDC and conversation with Corporal                  |
| <sup>189</sup> Notes of delegation member |  | on conversation with detainee (b)(6), (b)(7)c                          |
| <sup>190</sup> Notes of delegation member |  | on conversation with Corporal  |
| <sup>191</sup> Notes of delegation member |  | on conversation with Corporal (b)(6), (b)(7)c and observation of KCDC. |
| <sup>192</sup> Notes of delegation member |  | on observation of KCDC.  |

Detainees in disciplinary segregation have one hour for recreation every other day.<sup>193</sup> During this time, they are allowed to shower and take a walk.<sup>194</sup>

**C. Access to Medical Care**

The *Standards* require that all detainees have access to medical services that promote detainee health and general well-being.<sup>195</sup> Each facility is suggested to have regularly scheduled times, known as sick call, when medical personnel are available to see detainees who have requested medical services.<sup>196</sup> For a facility of over 200 detainees, a minimum of five days per week is suggested.<sup>197</sup> Facilities must also have procedures in place to provide emergency medical care for detainees who require it.<sup>198</sup> With respect to emergency care, the *Standards* state that in a situation in which a detention officer is uncertain whether a detainee requires emergency medical care, the officer should immediately contact a health care provider or an on-duty supervisor.<sup>199</sup> If a detainee is diagnosed as having a medical or psychiatric condition requiring special attention (e.g., special diet), the medical care provider is required to notify the Officer-in-Charge in writing.<sup>200</sup>

**KCDC appears to meet this Standard.** All detainees must fill out a medical request form in order to receive medical attention.<sup>201</sup> The Facility has one nurse on-site sixteen (16) hours a day, seven (7) days a week.<sup>202</sup> A physician is present at the Facility every Tuesday. A mental health professional visits the Facility four times a week.<sup>203</sup> Initial intake and screening is not done at KCDC, but is performed at the Kenosha County Pretrial Facility, 1000 55th Street, Kenosha, Wisconsin, 53140.<sup>204</sup> Tuberculosis tests are routinely done at KCDC when detainees are first brought in, and a follow up chest x-ray will be performed if necessary.<sup>205</sup> In addition, someone is staffed at the Pretrial Facility 24 hours a day to handle any emergencies that arise at KCDC.<sup>206</sup>

Detainees wishing to see medical staff need to request a medical treatment slip, available from the dormitory officer, fill it out and give it to the dormitory officer.<sup>207</sup> The slips are picked up from the dormitory officer three times a day and delivered to the nurse.<sup>208</sup> The

<sup>193</sup> Notes of delegation member (b)(6), on conversation with Corporal (b)(6), (b)(7)c

<sup>194</sup> Notes of delegation member (b)(6), on conversation with Corporal (b)(6), (b)(7)c

<sup>195</sup> Detention Operations Manual, Health Services, Standard 2, Section I.

<sup>196</sup> Detention Operations Manual, Health Services, Standard 2, Section I.

<sup>197</sup> Detention Operations Manual, Health Services, Standard 2, Section I.

<sup>198</sup> Detention Operations Manual, Health Services, Standard 2, Section III.A, D. and G.

<sup>199</sup> Detention Operations Manual, Health Services, Standard 2, Section III.H.

<sup>200</sup> Detention Operations Manual, Health Services, Standard 2, Section III.J.

<sup>201</sup> Notes of delegation member (b)(6) on conversation with Registered Nurse (b)(6)

<sup>202</sup> Notes of delegation member (b)(6) on conversation with Nurse (b)(6)

<sup>203</sup> Notes of delegation member (b)(6) on conversation with Nurse (b)(6)

<sup>204</sup> Notes of delegation member (b)(6) on conversation with Nurse (b)(6)

<sup>205</sup> Notes of delegation member (b)(6) on conversation with Nurse (b)(6)

<sup>206</sup> Notes of delegation member (b)(6) on conversation with Nurse (b)(6)

<sup>207</sup> KCDC Inmate Handbook, p.3. Notes of delegation member (b)(6) on conversation with Nurse (b)(6)

<sup>208</sup> Notes of delegation member (b)(6) on conversation with Nurse (b)(6)

nurse on duty will then determine whether medical attention/treatment is necessary.<sup>209</sup> If the nurse then finds that the condition warrants further attention, a physician will be notified, and in the event of an emergency, the detainee will be taken to the Aurora Medical Center.<sup>210</sup>

For non-English-speaking detainees requiring medical treatment, KCDC has staff that can speak Spanish.<sup>211</sup>

**D. Access to Dental Care**

The *Standards* suggest that detainees have an initial dental screening exam within 14 days of the detainee’s arrival and require the Facility to provide a number of services, including emergency dental treatment and repair of prosthetic appliances.<sup>212</sup> For detainees who are held in detention for over six months, routine dental treatment may be provided, including amalgam and composite restorations, prophylaxis, root canals, extractions, x-rays, the repair and adjustment of prosthetic appliances and other procedures required to maintain the detainee’s health.<sup>213</sup>

**KCDC does not fully meet this section of the *Standards*. An initial dental screening is not performed upon a detainee’s arrival at the Facility.**<sup>214</sup> However, a dentist visits the Facility once every two weeks.<sup>215</sup>

**E. Hunger Strike**

The *Standards* require that all facilities follow accepted standards of care in the medical and administrative management of hunger-striking detainees.<sup>216</sup> Facilities must do everything within their means to monitor and protect the health and welfare of the hunger-striking detainee and must make every effort to obtain the hunger striker’s informed consent for treatment.<sup>217</sup> In IGSA facilities, the “OIC of the facility shall notify [ICE] that a detainee is refusing treatment. Under no circumstances are IGSA facilities to administer forced medical treatment unless granted permission from [ICE].”<sup>218</sup>

**KCDC appears to meet this section of the *Standards*.** If an inmate or detainee declares a hunger strike the medical staff assesses the mental state of the patient, and regularly monitors the patient, including his or her food intake, liquid intake, weight, vital signs, etc.<sup>219</sup> A log of the detainee’s food and water intake is kept, and a psychological consult is ordered,

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<sup>209</sup> Notes of delegation member [redacted] on conversation with Nurse [redacted]  
<sup>210</sup> Notes of delegation member (b)(6) on conversation with Nurse [redacted]  
<sup>211</sup> Notes of delegation member [redacted] on conversation with Nurse [redacted]  
<sup>212</sup> Detention Operations Manual, Health Services, Standard 2, Section III.E (b)(6)  
<sup>213</sup> Detention Operations Manual, Health Services, Standard 2, Section III.E [redacted]  
<sup>214</sup> Notes of delegation member [redacted] on conversation with Nurse [redacted]  
<sup>215</sup> Notes of delegation member (b)(6) on conversation with Nurse [redacted]  
<sup>216</sup> Detention Operations Manual, Health Services, Standard 1, Section I.  
<sup>217</sup> Detention Operations Manual, Health Services, Standard 1, Section I.  
<sup>218</sup> Detention Operations Manual, Health Services, Standard 1, Section III.D.  
<sup>219</sup> Notes of delegation member [redacted] on conversation with Nurse (b)(6)

usually within a day or two of the initial declaration of a hunger strike.<sup>220</sup> In addition, ICE is notified if a detainee declares a hunger strike.<sup>221</sup>

According to Corporal (b)(6), (b)(7)c a thorough medical and psychological review of the detainee will be ordered upon declaration of a hunger strike, and the detainee will be segregated if necessary.<sup>222</sup>

**F. Detainee Classification System**

The *Standards* require that detention facilities use a classification system and physically separate detainees in different categories.<sup>223</sup> Detainees must be assigned to the least restrictive housing unit consistent with facility safety and security.<sup>224</sup> A detainee’s classification is to be determined on “objective” criteria, including criminal offenses, escape attempts, institutional disciplinary history, violent incidents, etc.<sup>225</sup> Opinions, unconfirmed and unverified information, and physical characteristics and appearance are not to be taken into account.<sup>226</sup> Classification is required in order to separate detainees with no or minimal criminal records from inmates with serious criminal records.<sup>227</sup> Detainees with a history of assaultive or combative behavior are not to be housed with non-assaultive detainees.<sup>228</sup>

All facility classification systems shall allow classification levels to be re-determined and include procedures by which new arrivals can appeal their classification levels.<sup>229</sup> Finally, the detainee handbook’s section on classification must include (1) an explanation of the classification levels, with the conditions and restrictions applicable to each, and (2) the procedures by which a detainee may appeal his classification.<sup>230</sup>

**KCDC does not fully meet some of this section of the *Standards*. The Inmate Handbook does not explain the classification system or the appeals process.** All detainees and inmates are classified when they first arrive at the Facility.<sup>231</sup> Detainees enter the facility with an ICE classification ranging from Level 1 to Level 3, with Level 1 being the least dangerous and Level 3 being the most dangerous.<sup>232</sup> These classifications are based on “objective criteria,” such as the detainee’s criminal history and history of violence.<sup>233</sup> Upon arrival, KCDC uses these ICE classifications to classify detainees into three levels, Level A

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<sup>220</sup> Notes of delegation member (b)(6) on conversation with Nurse (b)(6)

<sup>221</sup> Notes of delegation member (b)(6) on conversation with ICE O (b)(6), (b)(7)c

<sup>222</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>223</sup> Detention Operations Manual, Detainee Services, Standard 4, Section I.

<sup>224</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.F.

<sup>225</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

<sup>226</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

<sup>227</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.A & III.E.

<sup>228</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.F.

<sup>229</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.G & H.

<sup>230</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.I.

<sup>231</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>232</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>233</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

through Level C, that correspond with ICE’s three-tiered classification scheme (A coinciding with ICE Level 1 for the least dangerous).<sup>234</sup> The top and bottom groups, representing the most and least dangerous inmates, are housed on two separate units.<sup>235</sup> Members of the middle group can be housed on either unit.<sup>236</sup> These two units do not commingle; they eat separately and have separate recreation times.<sup>237</sup> However, inmates of all three classification groups receive the exact same privileges.<sup>238</sup>

Additionally, KCDC has its own classification system that is separate and distinct from the detainee classification system.<sup>239</sup> This system classifies inmates on a scale of 1-8, with level 1 being the most dangerous.<sup>240</sup> Based on this classification system, inmates ranging from levels 1-8 may be housed on the regular dormitory-style units.<sup>241</sup> Each detainee will thus have an ICE classification ranging from A through C, as well as a separate Kenosha classification ranging from 3-8.<sup>242</sup>

Detainee and inmate classifications are constantly reassessed.<sup>243</sup> There is also an appeals process, whereby an inmate can challenge his classification in writing.<sup>244</sup> However, in contravention of the *Standards*,<sup>245</sup> the Inmate Handbook does not explain the classification levels, the conditions and restrictions associated with each classification level, or the process by which a detainee can appeal his or her classification level.<sup>246</sup>

### G. Voluntary Work Program

The *Standards* suggest that all facilities with work programs provide an opportunity for physically and mentally capable detainees to “work and earn money.”<sup>247</sup> Participation must be voluntary, and detainees may not work more than eight hours per day, or forty hours per week.<sup>248</sup>

**KCDC does not meet this section of the *Standards*. Although KCDC has a voluntary work program (e.g., in the kitchen department) for individuals held in custody on behalf of Kenosha County law enforcement authorities, ICE detainees are not allowed to**

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<sup>234</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>235</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>236</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>237</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>238</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>239</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c  
<sup>240</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>241</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>242</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>243</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>244</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>245</sup> Detainee operations Manual, Detainee Services, Standard 4, Section III.I.  
<sup>246</sup> Inmate Handbook, pp. 1-4.  
<sup>247</sup> Detention Operations Manual, Detainee Services, Standard 37, Sections I & III.A.  
<sup>248</sup> Detention Operations Manual, Detainee Services, Standard 37, Sections III.A & H.

**participate in the program.**<sup>249</sup> KCDC’s reason for not allowing detainees to participate in the voluntary work program is that individuals participating in the program are compensated not with money, but with reduced sentences;<sup>250</sup> KCDC cannot offer reduced sentences to ICE detainees, who are not serving a sentence.<sup>251</sup>

**H. Detainee Grievance Procedures**

The *Standards* require that that every facility develop and meet standard procedures for handling detainee grievances and encourage the facility to initially seek to resolve grievances informally before having to engage in a more formalized procedure.<sup>252</sup> Translating assistance for both formal and informal grievances must be provided upon request.<sup>253</sup> The *Standards* also require that each facility establish a reasonable time limit for: (1) “processing, investigating, and responding to grievances;” (2) “convening a grievance committee to review formal complaints;” and (3) “providing written responses to detainees who filed formal grievances, including the basis for the decision.”<sup>254</sup> All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.<sup>255</sup>

**KCDC substantially meets this Standard. However, there is apparently no translation assistance.** The Facility Inmate Handbook provides that “Inmates at the Kenosha County House of Corrections may use the established grievance process to secure equitable and timely responses and/or solutions to legitimate grievances.”<sup>256</sup> The Handbook further states that detainees “will not be penalized for using the procedure except that lying about a staff member or service provider is a rules violation and will be treated accordingly.”<sup>257</sup>

The grievance procedure established by the Facility is as follows. First, the detainee should “speak with the dormitory officer or activity supervisor. The officer will attempt to correct any misconceptions about HOC procedures.”<sup>258</sup> Facility personnel confirmed that this process is followed, stating “one of the best reasons to have a dorm officer is to resolve conflicts right then and there.”<sup>259</sup> Facility personnel stated that the majority of detainee grievances are resolved using this informal procedure.<sup>260</sup>

If the issue is unable to be resolved using the “informal” mechanism, the detainee may obtain an Inmate Grievance Form from his/her dormitory officer, which must be filed

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<sup>249</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>250</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Corporal [REDACTED] (b)(6), (b)(7)c  
<sup>251</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>252</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections I. & III.A.  
<sup>253</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections III.A.1 & 2.  
<sup>254</sup> Detention Operations Manual, Detainee Services, Standard 5, Section I.  
<sup>255</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.C & D.  
<sup>256</sup> Inmate Handbook, Appendix: Grievance Procedure.  
<sup>257</sup> Inmate Handbook, Appendix: Grievance Procedure.  
<sup>258</sup> Inmate Handbook, Appendix: Grievance Procedure.  
<sup>259</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]  
<sup>260</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Corporal [REDACTED] (b)(6), (b)(7)c

within 7 days of the occurrence.<sup>261</sup> The detainee is required to write a description of the event, the rule that was violated, and a suggestion about a possible solution to the conflict.<sup>262</sup> The forms are to be deposited in a mailbox located at the entrance to the dining room, which are emptied twice a day.<sup>263</sup> Facility personnel stated that the grievance mailbox is a useful tool for keeping the identity of the grievance holder confidential.<sup>264</sup>

After the grievance mailboxes are emptied, they are given to the Assistant Superintendent.<sup>265</sup> The Assistant Superintendent will assign a supervisor to review the grievance and must give a written response within 7 days of the receipt of the Grievance Form.<sup>266</sup> Detainees have 72 hours from receipt of the Response to file an appeal using another Inmate Grievance Form (“Appeal Form”).<sup>267</sup> The Appeal Form is placed in the same mailbox as the initial grievance forms.<sup>268</sup> The Appeal Form, initial Grievance Form, and other pertinent documentation will be given to the Assistant Superintendent or a designee, and “[he] will make every effort to complete the Grievance Appeal within 14 calendar days of receiving the appeal.”<sup>269</sup> Final decisions regarding the detainee grievance are provided to the detainee in written form.<sup>270</sup>

Detainee (b)(6), (b)(7)c stated that when he has a problem he first communicates with his dormitory officer.<sup>271</sup> Detainee (b)(6), (b)(7)c who only speaks Spanish – stated that there are no translation services so he must get a friend to speak with the dormitory officer on his behalf.<sup>272</sup> Detainee (b)(6), (b)(7)c has never filed a formal written grievance.<sup>273</sup>

## I. Disciplinary Policy

The *Standards* state that facility authorities “will impose disciplinary sanctions on any detainee whose behavior is not in compliance with facility rules and procedures” in order “to provide a safe and orderly living environment.”<sup>274</sup> Each facility holding ICE detainees must have a detainee disciplinary system which has “progressive levels of reviews, appeals, procedures, and documentation procedures.”<sup>275</sup> Any disciplinary action taken must not be capricious or retaliatory and the following sanctions may not be imposed: “corporal punishment; deviations from normal food services; deprivation of clothing, bedding, or items of personal

<sup>261</sup> Inmate Handbook, Appendix: Grievance Procedure.

<sup>262</sup> Inmate Handbook, Appendix: Grievance Procedure.

<sup>263</sup> Inmate Handbook, Appendix: Grievance Procedure.

<sup>264</sup> Notes of delegation member Kevin Agnew, on conversation with Corporal (b)(6), (b)(7)c

<sup>265</sup> Inmate Handbook, Appendix: Grievance Procedure.

<sup>266</sup> Inmate Handbook, Appendix: Grievance Procedure.

<sup>267</sup> Inmate Handbook, Appendix: Grievance Procedure.

<sup>268</sup> Inmate Handbook, Appendix: Grievance Procedure.

<sup>269</sup> Inmate Handbook, Appendix: Grievance Procedure.

<sup>270</sup> Inmate Handbook, Appendix: Grievance Procedure.

<sup>271</sup> Notes of delegation member (b)(6) on interview with Detainee (b)(6), (b)(7)c

<sup>272</sup> Notes of delegation member (b)(6) on interview with Detainee (b)(6), (b)(7)c

<sup>273</sup> Notes of delegation member (b)(6) on interview with Detainee (b)(6), (b)(7)c

<sup>274</sup> Detention Operations Manual, Security and Control, Standard 5, Section I.

<sup>275</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.1.

hygiene; deprivation of correspondence privileges; or deprivation of physical exercise unless such activity creates an unsafe condition.”<sup>276</sup> In addition, the *Standards* provide that all incident reports filed by officers must be investigated within twenty-four hours of the incident.<sup>277</sup> An intermediate level of investigation or adjudication must be established to adjudicate low or moderate infractions.<sup>278</sup>

**KCDC appears to meet this section of the *Standards*.** The Inmate Handbook lists five distinct categories of rules violations, which are classified as either “Minor Rule Violations” or “Major Rule Violations.”<sup>279</sup> A minor violation “means a violation of the HOC’s rules of behavior for which a minor sanction may be imposed.”<sup>280</sup> Minor violation sanctions include: verbal reprimands that should be given away from other inmates; loss of privileges for up to 24 hours; restriction to the dormitory Isolation Room for no longer than 24 hours; extra work assignments; and restrictions on electronics.<sup>281</sup> The Inmate Handbook does not define “loss of privileges.” However, Corporal (b)(6), (b)(7)c stated that “general things like candy and snacks are sometimes taken away.”<sup>282</sup> Therefore, while it is unclear whether the Facility imposes sanctions prohibited by the *Standards*, it appears that minor violations do not warrant deprivation of “clothing, bedding, or items of personal hygiene; deprivation of correspondence privileges; or deprivation of physical exercise.”<sup>283</sup>

A “Major Violation” is “one in which the violation sanction is restriction of privileges for more than 24 hours, loss of good time, [or] segregation for more than 24 hours.”<sup>284</sup> An officer who observes a major violation is instructed to “take immediate action to correct the situation.”<sup>285</sup> After addressing the situation, the officer must complete a detailed “Conduct Report” before the officer’s day ends, although the Shift Supervisor may allow additional time to complete and document any additional investigative information.<sup>286</sup> The “Conduct Report” is submitted to a supervisor who determines “when, or if, a Disciplinary Hearing will be conducted.”<sup>287</sup> The Shift Supervisor determines “whether the [detainee] should remain in the housing unit pending completion of the investigation or hearing.”<sup>288</sup>

Detainees charged with a major violation “will receive a hearing before the imposition of disciplinary measures, unless the [detainee] waives his/her right to such a hearing.”<sup>289</sup> The assigned Hearing Officer is to be of supervisory rank and may not have

<sup>276</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.2 and III.A.3.

<sup>277</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.B. and III.C.

<sup>278</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.C.

<sup>279</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>280</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>281</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>282</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>283</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.2 and III.A.3.

<sup>284</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>285</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>286</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>287</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>288</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>289</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

personally observed, been part of, or investigated the incident in any way.<sup>290</sup> Lieutenant (b)(6), (b)(7)c (b)(6), (b)(7)c stated that the Hearing Officer must be “impartial so that he can review the incident without any bias.”<sup>291</sup> The detainee has the right to be present at the hearing, to speak, and to present witnesses unless there are safety concerns.<sup>292</sup> After hearing the evidence in the case, the Hearing Officer makes a determination about the appropriate remedy.<sup>293</sup> The Hearing Officer will record the disposition on the Disciplinary Hearing Report, which the detainee will receive and which will include the appeal procedure.<sup>294</sup>

None of the detainees interviewed had been through a formal disciplinary procedure.<sup>295</sup>

## J. Religious Practices

The *Standards* require that detainees of different religious beliefs be “provided with reasonable and equitable opportunities to participate in the practices of their respective faiths.”<sup>296</sup> According to the *Standards*, these opportunities will exist for all equally, regardless of the number of practitioners of a given religion, whether the religion is “mainstream,” whether the religion is “Western” or “Eastern,” or other such factors.<sup>297</sup> “Opportunities will be constrained only by concerns about safety, security, the orderly operation of the facility, or extraordinary costs associated with a specific practice.”<sup>298</sup> Moreover, a facility’s staff shall make “all reasonable efforts to accommodate” special food services required by a detainee’s particular religion.<sup>299</sup> Detainees in confinement must also be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility.<sup>300</sup>

**KCDC meets this Standard.** Upon arrival at KCDC, the facility asks each detainee to designate his or her religious preference.<sup>301</sup> The facility has two chaplains, Sister (b)(6) and Pastor (b)(6), each of whom has offices at the facility and meets with detainees.<sup>302</sup> Outside clergy of other faiths who are approved by the facility may also visit detainees in the general visitation area or in the professional visitation area.<sup>303</sup> Upon request of the detainees and review by the clergy members, detainees may use multipurpose rooms or other areas of KCDC for group religious activities, and are permitted to observe important “holy days.”<sup>304</sup> Detainees who are in

<sup>290</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>291</sup> Notes of delegation member (b)(6) on conversation with Lieutenant (b)(6), (b)(7)c

<sup>292</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>293</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>294</sup> Inmate Handbook, Appendix: Inmate Rules/Discipline.

<sup>295</sup> Notes of delegation member (b)(6)

<sup>296</sup> Detention Operations Manual, Detainee Services, Standard 14, Section I.

<sup>297</sup> Detention Operations Manual, Detainee Services, Standard 14, Section I.

<sup>298</sup> Detention Operations Manual, Detainee Services, Standard 14, Section I.

<sup>299</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

<sup>300</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.O.

<sup>301</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>302</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>303</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>304</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

disciplinary segregation units are allowed to meet with clergy individually but, due to safety concerns, are not allowed to attend group religious meetings.<sup>305</sup>

Upon request by detainees and review by the facility’s clergy, KCDC’s kitchen provides accommodations for detainees with religious dietary requirements (e.g., Muslim and Jewish detainees may have certain dietary restrictions).<sup>306</sup> Detainees are generally permitted to keep and access personal religious property, such as Muslim prayer rugs.<sup>307</sup>

**K. Special Management Unit**

The *Standards* require that each facility establish a Special Management Unit (“SMU”) that will isolate certain detainees from the general population.<sup>308</sup> All cells in the SMU must be equipped with beds that are securely fastened to the cell floor or wall.<sup>309</sup> Segregated detainees shall have the opportunity to maintain a normal level of personal hygiene.<sup>310</sup> Recreation shall be provided to detainees in disciplinary segregation in accordance with the “Recreation” *Standard*, absent compelling security or safety reasons documented by the OIC.<sup>311</sup> Access to legal materials shall be accommodated no more than 24 hours after receipt of the initial detainee request.<sup>312</sup> Similarly, access to the law library shall be granted to detainees in segregation; the facility may limit this to access by request.<sup>313</sup> Finally, “As a rule, a detainee retains visiting privileges while in disciplinary segregation,” and a detainee in disciplinary segregation shall not be denied legal visitation.<sup>314</sup>

**KCDC does not fully meet this *Standard*: detainees in segregation are not allowed family visits, and recreation is limited.** We were unable to view the Special Management Unit area, but we were informed that the disciplinary segregation area has the capacity to hold 22 inmates or detainees.<sup>315</sup> While in disciplinary segregation, detainees are not allowed family visits, but they can have legal visits.<sup>316</sup> A detainee’s access to the research computer is limited in segregation.<sup>317</sup> A detainee must request use of the computer, each request will be considered on a case-by-case basis, and the detainee will be allowed access if his need is

<sup>305</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]

<sup>306</sup> Notes of delegation member (b)(6) on conversations with Corporal (b)(6), (b)(7)c

<sup>307</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]

<sup>308</sup> Detention Operations Manual, Security and Control, Standards 13 & 14, Section I.

<sup>309</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.6.

<sup>310</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.11.

<sup>311</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.13.

<sup>312</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.15.c.

<sup>313</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.15.e.

<sup>314</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.17.

<sup>315</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]

<sup>316</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>317</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]

justified.<sup>318</sup> If a detainee’s request is granted, the research computer cart is placed in an empty segregation cell for the detainee’s use.<sup>319</sup>

As mentioned above, detainees in disciplinary segregation have one hour for recreation every other day, despite the *Standards* requiring access to recreation every day.<sup>320</sup> During this time, they are allowed to shower and take a walk.<sup>321</sup> While in disciplinary segregation, detainees have access to the group rights presentations with an escort and can visit with clergy.<sup>322</sup>

**L. Staff-Detainee Communication/ICE Presence at the Facility**

The *Standards* require that detainees should have regular access to ICE staff.<sup>323</sup> ICE staff should explain the general procedures for immigration removal without offering legal advice to the detainees regarding their specific cases.<sup>324</sup> The *Standards* require that ICE staff conduct both unannounced and scheduled visits to the detention centers, including visiting the housing units, the food service areas, and the recreation areas.<sup>325</sup> The *Standards* also require that detainees “have the opportunity to submit written questions, requests or concerns to ICE staff.”<sup>326</sup> In addition, the officers should promptly deliver the messages to ICE without reading or altering the messages, and a log should be kept of the messages sent and the responses received.<sup>327</sup> Detainees should be informed in the detainee handbook that they may make requests to ICE.<sup>328</sup>

**It is unclear whether KCDC meets the provisions in this *Standard* regarding scheduled and unannounced visits, and the detainee handbook does not state that detainees may submit written questions or concerns to ICE staff.** The day we visited the Facility, there were two ICE staff members present who had just finished conducting a yearly inspection of the Facility. The two members who we spoke with were not the regular ICE officers for that facility, although they had some familiarity with the procedures.<sup>329</sup> According to these two ICE staff members, ICE staff visit the Facility every Friday, and the detainees are informed about weekly ICE visits by staff members.<sup>330</sup> We were told that the day of the ICE visit is posted for the detainees in the dorm room, but we did not observe such a posting during our visit.<sup>331</sup> Further,

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<sup>318</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]  
<sup>319</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]  
<sup>320</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c  
<sup>321</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]  
<sup>322</sup> Notes of delegation member [redacted] on conversation with Corporal [redacted]  
<sup>323</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.  
<sup>324</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A  
<sup>325</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.1-2.  
<sup>326</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.  
<sup>327</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.  
<sup>328</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.  
<sup>329</sup> Notes of delegation member [redacted] on conversation with Officers [redacted] (b)(6), (b)(7)c  
<sup>330</sup> Notes of delegation member (b)(6) on conversation with Officers [redacted]  
<sup>331</sup> Notes of delegation member [redacted] on observation and conversation with Officer [redacted] (b)(6), (b)(7)c

detainee (b)(6), (b)(7)c stated that he was not aware that ICE visits every Friday.<sup>332</sup> It was not clear when or how often unannounced visits are conducted.

Detainees can send messages or requests to ICE staff, and those requests are faxed by facility staff to the ICE office before the weekly visit.<sup>333</sup> A log is kept of all out-going requests as well as whether a response from ICE was received.<sup>334</sup> According to the two ICE staff members, requests to ICE usually concern case status questions or complaints about ICE procedures; and staff usually answer any questions they can about the status of a case, such as informing the detainee of an upcoming important date or explaining to the detainee the next step in his case.<sup>335</sup> The ICE staff also stated that often the detainees have complaints, and that ICE staff tries to make time to speak with and listen to the detainees.<sup>336</sup> The ICE staff stated that they also try to find out whether any of the detainees are in segregation, and if so, why they were placed in segregation. They try to speak with detainees in segregation and review the reports regarding any incidents which may have occurred.<sup>337</sup>

There is no mention in the Inmate Handbook of the procedures involving submission of questions or concerns to ICE staff, nor is there mention that personnel from ICE visit weekly.<sup>338</sup>

#### M. Detainee Handbook

The *Standards* require that the facility must provide each detainee, upon admittance, with a copy of the detainee handbook or equivalent.<sup>339</sup> The handbook must include visitation rules and hours.<sup>340</sup> It shall notify detainees of the facility correspondence policy.<sup>341</sup> The handbook must also state “that the detainee has the opportunity to submit written questions, requests, or concerns to ICE staff and the procedures for doing so, including the availability of assistance in preparing the request.”<sup>342</sup>

**KCDC does not fully meet this section *Standard*. The Inmate Handbook lacks information that should be provided to detainees, including information on legal visitation, legal mail, classification levels, and procedures for contacting ICE staff. A copy of the Inmate Handbook is not provided to detainees.** KCDC does not have a separate Detainee Handbook. Rather, the Facility has an Inmate Handbook, in both English and Spanish, that is posted in all the dorms.<sup>343</sup> The Inmate Handbook applies to the inmates generally, and is

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<sup>332</sup> Notes of delegation member (b)(6), (b)(7)c on interview with detainee (b)(6), (b)(7)c

<sup>333</sup> Notes of delegation member (b)(6), (b)(7)c on conversation with Corporal (b)(6), (b)(7)c

<sup>334</sup> Notes of delegation member (b)(6), (b)(7)c on conversation with Corporal (b)(6), (b)(7)c

<sup>335</sup> Notes of delegation member (b)(6) on conversations with Officers (b)(6), (b)(7)c

<sup>336</sup> Notes of delegation member (b)(6), (b)(7)c on conversations with Officers (b)(6), (b)(7)c

<sup>337</sup> Notes of delegation member (b)(6), (b)(7)c on conversation with Officer (b)(6), (b)(7)c

<sup>338</sup> Notes of delegation member (b)(6), (b)(7)c on review of Inmate Handbook.

<sup>339</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

<sup>340</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.B.

<sup>341</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

<sup>342</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

<sup>343</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

not specific to detainees and their concerns. Detainees are not provided a copy of the Inmate Handbook.<sup>344</sup> However, upon admission to KCDC every detainee is required to watch an orientation video that lays out the rules of the Facility and provides the information found in the Inmate Handbook.<sup>345</sup> This was confirmed by detainee (b)(6), (b)(7)c, who stated that he watched the orientation video upon coming to KCDC.<sup>346</sup>

The Inmate Handbook overall does not contain much information pertaining to the detainee’s everyday needs while in the Facility.<sup>347</sup> The Handbook contains very general information on visiting, medical care, mail, and general behavior.<sup>348</sup> There is nothing in the Handbook regarding legal visitation, access to legal materials, the rules regarding legal mail, or information on the classification system.<sup>349</sup> The Handbook should be revised to contain more detailed information overall, including information regarding legal visitation and access to legal materials. Also, the Handbook does not contain anything detailing the procedures for a detainee to contact or communicate with ICE staff.<sup>350</sup> Adding more information in the Inmate Handbook specifying the process for contact with ICE staff would help make it clear to all ICE detainees that the detainee request forms also apply to ICE communications.

**N. Personal Property**

The *Standards* indicate that detainees should be permitted to retain a reasonable amount of personal property in their possession so long as the property poses no threat to facility security.<sup>351</sup> Additionally, detainees should be permitted to retain all personal legal materials unless it creates a safety, security, or sanitation hazard.<sup>352</sup>

**KCDC fully meets this Standard.** The majority of detainees at KCDC are processed in a different facility and their personal property is kept at that facility.<sup>353</sup> If a detainee acquires personal property while in KCDC, it is inventoried and kept in a small storage area.<sup>354</sup> Each detainee has a storage bin under his bed that has a lock.<sup>355</sup> They are allowed to keep photos, mail, legal materials and other allowed personal property in their bins.<sup>356</sup> Additionally,

<sup>344</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>345</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>346</sup> Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

<sup>347</sup> See KCDC Inmate Handbook.

<sup>348</sup> See KCDC Inmate Handbook.

<sup>349</sup> See KCDC Inmate Handbook.

<sup>350</sup> See KCDC Inmate Handbook.

<sup>351</sup> Detention Operations Manual, Detainee Services, Standard 18, Section III.B.

<sup>352</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.K.

<sup>353</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>354</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

<sup>355</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c and observation.

<sup>356</sup> Notes of delegation member (b)(6) on conversation with Corporal (b)(6), (b)(7)c

detainees are allowed a towel to use as a prayer rug.<sup>357</sup> Each detainee is allowed to keep all personal legal materials so long as they fit in the storage bin.<sup>358</sup>

## V. CONCLUSION

The Kenosha County Detention Center substantially meets many of the ICE *Detention Standards*, but also fails to meet a number of sections. Our delegation recommends the following:

The KCDC Inmate Handbook should be revised to include detainee specific information such as how to request a visit and communicate with ICE officers. It should also be revised to include sections on legal visits, legal mail, access to legal materials, and classification. The Handbook should address those issues which specifically apply to the detainees, so they are aware of their rights. In addition, every detainee should be given a copy of the Handbook, rather than relying on it being posted in the dormitories.

Due to the location of the Facility, and the fact that many of the detainees are from areas that require travel to visit, KCDC should be willing to extend visiting hours or allow for visiting outside the normal schedule to accommodate visitors traveling from great distances. Visits should be permitted on Saturdays and Sundays.

To provide proper access to legal materials, KCDC should institute a law library, and ensure that detainees have access to all legal materials required by the *Standards*. KCDC should also ensure that computer training is provided, because legal materials are only accessible via computer and some of the inmates are computer illiterate. KCDC should ensure that sufficient computers and writing materials are provided without cost to detainees. Specifically, KCDC should increase the number of legal access computers that are available to the detainees. Finally, detainees should be informed upon arrival of the computers.

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<sup>357</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]

<sup>358</sup> Notes of delegation member [REDACTED] on conversation with Corporal [REDACTED]

**Report of the American Bar Association Delegation  
to the Kenosha County Detention Facility**

(b)(6)

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## **Report of the American Bar Association Delegation to the Kenosha County Detention Facility**

**DATE: September 10, 2004**

This memorandum summarizes and evaluates information gathered at the Kenosha County Detention Facility (“Facility”) in Kenosha, Wisconsin, during the delegation’s July 13, 2004 visit to the facility. The information was gathered via observation of the facility by the delegation and interviews with immigration detainees (“Detainees”) and detention center personnel.

### **I. Detention Standards**

In November 2000, the former Immigration and Naturalization Service (“INS”) promulgated the detentions standards (“Detention Standards”) to insure the “safe, secure and humane treatment” of Detainees. The standards cover a range of issues from visitation policies to grievance procedures to food service. The Detention Standards apply to detention centers operated by Immigration and Customs Enforcement (“ICE”) personnel and to other facilities that house Detainees as part of a contract or intergovernmental service agreement (“IGSA”).

The Detention Standards constitute the minimum requirements for the treatment of Detainees at ICE facilities. Each field office and/or officer in charge may also, in his or her discretion, promulgate policies and practices that afford Detainees rights and protections above and beyond the Detention Standards.

The Detention Standards took effect at ICE-operated detention facilities on January 1, 2001. ICE intended to phase the Detention Standards gradually into all of its contract and IGSA facilities by December 31, 2002.

The ABA Commission on Immigration instituted the Detention Standards Implementation Initiative (“ABA Initiative”), a program designed to tour detention facilities in order to observe the effective implementation of the Detention Standards as mandated by the former INS.

## II. The Delegation’s Visit

In connection with the ABA Initiative, a group of attorneys and paralegals from Holland & Knight LLP (“Delegation”) toured the Facility on July 13, 2004, to determine whether the Facility has implemented the Detention Standards. The Delegation, consisting of [REDACTED] (b)(6) [REDACTED] (b)(6) met with [REDACTED] (b)(6) the Facility’s shift supervisor, and other members of the Facility’s staff for a tour of the Facility, and interviews with Detainees. This report is based on the observations of the members of the Delegation during that visit.

At the time of the Delegation’s visit, the Facility housed 394 individuals, of which 96 were Detainees. At any given time, the majority of the Detainees are men, with the number of female Detainees generally ranging from five to 12. The countries predominantly represented in the Detainee population at the Facility are Mexico, Cuba, Poland, and Central American, although the female Detainees tend to be Asian. The duration of Detainees’ stays at the Facility ranges from as short as five days to as long as several years. For example, one South African Detainee ended a four and one-half year stay shortly before the Delegation’s visit.

The remainder of the Facility’s population was made up of inmates who have been confined to the Facility for various criminal offenses (“Inmates”). Although the

Facility takes some precautions, as described below, to ensure that Detainees are not exposed to more serious criminal offenders, Detainees and Inmates are intermingled throughout the Facility.

Detainees are classified according to the degree of risk they pose. Low-risk Detainees such as asylum seekers and migrant workers are classified as “Level 1” Detainees. Detainees who are not considered dangerous but who have minor criminal convictions are classified as “Level 2” Detainees. Finally, Detainees that pose the greatest degree of risk – generally Detainees with combative histories, violent propensities, or felony convictions – are classified as “Level 3” Detainees. While the Facility prevents the intermingling of Level 1 and Level 3 Detainees, except those in segregation, Level 2 Detainees may be intermingled with either Level 1 or Level 3 Detainees. All of the individuals housed at the Facility, both Inmates and Detainees, wear orange uniforms.

A “Detainee Handbook” is posted in each dormitory of the Facility. Individual copies of this handbook are not distributed to the Detainees, although Officer (b)(6), (b)(7)c has copies available in his office for review. The Facility’s rules are posted in both English and Spanish. According to Officer (b)(6), (b)(7)c, the Facility rules include those in the Detainee Handbook.

One of the most notable features of the Facility is its cleanliness. All of the areas observed by the Delegation, including the kitchen, appeared extremely clean and orderly. Facility officials and the Detainees noted that Detainees and Inmates are responsible for cleaning their dormitory and volunteers help in the kitchen for which they are compensated.

### **III. Observations of Implementation of Legal Access Standards**

#### **A. Law Library and Legal Materials**

The Detention Standards mandate that detention facilities provide Detainees with “adequate” access to legal materials so that Detainees have the opportunity to apprise themselves of their legal rights. In addition, detention facilities must maintain certain legal reference materials specified by the Detention Standards.<sup>1</sup>

The Facility’s library contains general reading materials, such as donated books and magazines, but no hard copy legal materials. Instead, the Facility provides legal materials on two Lexis-Nexis CD-ROMs. The CD-ROMs, which may be downloaded to a computer, contain a broad range of immigration law materials, including case and statutory law. The CD-ROMs are updated at least three to four times per year pursuant to the Facility’s contract with Lexis. There is no single Facility official or officer responsible for maintaining and updating the library’s Lexis-Nexis system. Further, while there isn’t any one individual responsible for helping Detainees with computer issues, the Delegation was informed that members of the Facility staff are trying to familiarize themselves with the computer so that they can help Detainees with computer access.

Although there are other computers in the Facility, there is only one computer designated for legal research. The Lexis CD-ROMs may be downloaded directly to this computer. Written directions for downloading the software and using the Lexis-Nexis research system are available next to this computer. The computer, which sits on a stand-alone, movable cart, is typically stored in a

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<sup>1</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

separate room in the library, which remains open and unlocked during the day. The computer may be moved virtually anywhere within the Facility at a Detainee's request. Most Detainees are allowed to use the computer and the Lexis research system at any time during the daytime hours, and are not limited in the number of times they may use the computer and Lexis research system. However, Detainees in segregation units may only use the legal research system at the discretion of the Facility staff.

Because the segregation units are located in a separate section of the Facility, Facility officers will transport the computer to a segregation unit only if the particular Detainee making the request has an urgent need for legal information, such as an imminently pending hearing. When considering a request for computer use from a segregated Detainee, Facility officers take into account the duration of the Detainee's stay in segregation. For example, if a segregated Detainee requests computer use but is due to be released from segregation shortly, Facility officers generally will not transport the computer to the segregated Detainee.

There is one printer available for printing materials found on Lexis and Detainees may print legal materials free of charge. Further, Detainees may obtain photocopies of any legal materials by filling out a request form and paying 25 cents per copy. However, if a Detainee is deemed indigent, he or she may make photocopies free of charge, provided the amount of material to be copied is not unreasonably voluminous. Typically, if a Detainee is deemed indigent, requests for personal items must be made through and approved by Sister (b)(6) the Facility's "in house" religious advisor. Detainees may also save legal materials to a computer

disk provided at no cost by the Facility. Additional computers, paper, writing instruments, and other office supplies are available at designated areas in the Facility. The Facility provides free stamps, envelopes, and other mailing supplies to send out materials related to legal matters. Detainees may store any printed material and computer disks in their personal lockers in their dormitory rooms.

Although the Delegation did not tour the Facility's general library, it does not appear that the Facility maintains either hard or electronic copies of the reading materials mandated by the Detention Standards. Further, there are no copies of the Florence Project's "Know Your Rights" packets in the library. However, the Midwest Immigration and Human Rights Center ("MIHRC") distributes handouts covering these materials when MIHRC conducts group presentations at the Facility. Further, there is no separate, private room designated for legal research and writing as required by the Detention Standards. Lastly, the Facility does not have copies of the legal reference materials specified on the Detention Standards list.

At least two of the Detainees were not aware of the legal materials available in the library and had not used the library at all.<sup>2</sup> One reported that he was aware of the presence of legal materials.<sup>3</sup> Another Detainee noted that he was not permitted access to the library, but has been allowed materials upon request and has been allowed to use the computer.<sup>4</sup> One Detainee stated that the Facility's legal materials were outdated and that the computer was not readily available.<sup>5</sup>

<sup>2</sup> Detainee interview notes of [REDACTED] (b)(6)

<sup>3</sup> Detainee interview notes of [REDACTED] (b)(6)

<sup>4</sup> Detainee interview notes of [REDACTED] (b)(6) s not clear whether this Detainee was in a segregated unit.

<sup>5</sup> Detainee interview notes of [REDACTED] (b)(6)

## **B. Group Rights Presentations**

The Detention Standards provide that the Facility shall permit authorized persons to make presentations to groups of Detainees for the purpose of informing them of U.S. immigration law and procedures consistent with the security and orderly operation of the Facility.<sup>6</sup>

MIHRC, a non-profit agency, conducts group rights presentations at the Facility twice a year. In addition, the Florence Project's<sup>7</sup> "Know Your Rights" video, which is distributed by ICE, is shown at the Facility every Monday. The Delegation was told that there is a representative available to answer questions after the weekly video presentation.

## **C. Visitation**

The Detention Standards provide that the Facility should allow Detainees to meet privately with their current or prospective legal representatives and the applicable consular officials.<sup>8</sup> The Detention Standards encourage visitation with family and friends to maintain Detainee morale and family relationships.<sup>9</sup> Therefore, the Detention Standards require each facility to allow visitation and establish written visitation procedures.<sup>10</sup> A minimum of 30 minutes per visit must be allowed under normal conditions, though the Detention Standards encourage

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<sup>6</sup> Detention Operations Manual, Detainee Services, Standard 9, Section I.

<sup>7</sup> The Florence Project is a nonprofit legal service organization that provides free legal services to men, women and children detained by the Bureau of Immigration and Customs Enforcement (ICE). Further information can be found at <http://www.firrp.org>.

<sup>8</sup> Detention Operations Manual, Detainee Services, Standard 16, Section I.

<sup>9</sup> Detention Operations Manual, Detainee Services, Standard 16, Section I.

<sup>10</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.A.

more generous limits when possible.<sup>11</sup> The Facility must allow visitation by immediate family members and other relatives, friends, and associates.<sup>12</sup>

Each Detainee is permitted one 30 minute, non-contact visit per week. However, visits with non-legal professionals, *i.e.* anyone who is not an attorney, paralegal, or otherwise associated with a Detainee's legal case, are privileges that may be taken away. Detainees who are housed in segregation units for administrative or disciplinary reasons are not allowed these visits. Detainees may be visited by up to two individuals during this 30 minute period, but the period may not be shared with a third visitor. Children are allowed to visit if escorted by a parent or guardian. Facility staff search each Detainee via an over-the-clothing pat-down method before and after each visit. Visitors to the Facility must show valid identification to Facility staff prior to visiting a Detainee.

Visits with non-legal professionals – typically friends and family – occur in one of the 20 visit stalls located in the Facility's visiting room. The visit stalls each contain a glass partition that separates the Detainee from his or her visitor(s) and a telephone to allow the Detainees and visitors to talk.

A visitation schedule is posted in the lobby area of the Facility. Visitation hours differ for male and female Detainees. According to the schedule, male Detainees are allowed visits between 8:00 a.m. and 11:00 a.m. on Sundays, and from 6:00 p.m. to 8:00 p.m. on Tuesdays, Thursdays, Fridays, and Saturdays. However, in one of the Facility's male dormitories, Friday visiting hours were

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<sup>11</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.H.1.

<sup>12</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.H.2.

crossed out – it was not clear whether this applied solely to the specific dormitory or the Facility as a whole. Female Detainees are allowed visits between 1:00 p.m. and 3:00 p.m. on Sundays and from 6:00 p.m. to 8:00 p.m. on Mondays. However, visits are not permitted on New Year’s Eve, New Year’s Day, Good Friday, Memorial Day, Labor Day, Thanksgiving, Christmas Eve, or Christmas Day.

Visits by legal professionals such as attorneys, paralegals, and approved experts are by right and are unlimited in number and unrestricted as to time. However, a legal professional must provide advance notice to the Facility and must show proper identification, such as a bar association card, upon entry to the Facility. These visits take place in one of ten full-contact conference rooms designated for this purpose in the Facility. The conference rooms have a door for privacy, but the walls contain plastic windows so that visits may be visually observed by Facility staff. Visiting legal professionals and Detainees are not physically separated in these conference room. One of the conference rooms is set up for videoconferencing use, but was not yet available for use at the time of the Delegation’s visit. Interpreters and electronic telephonic language lines are available as necessary for these visits.

While most of the Detainees interviewed were aware of the visitation hours, at least one stated that he did not know of them.<sup>13</sup> Most of the Detainees are visited regularly by family and/or friends but visits by attorneys and other legal professionals appear to be relatively rare. At least one of the Detainees stated that

<sup>13</sup> Detainee interview notes of (b)(6)

the visitation policies do not allow for enough visits.<sup>14</sup> None of the Detainees interviewed had ever requested special arrangements for a visit (e.g. a visit outside of normal visiting hours); therefore the Delegation does not know whether or how the Facility would accommodate such requests.

#### **D. Access to Telephones and Correspondence**

The Detention Standards require Detainees be allowed to send and receive correspondence in a timely manner, subject to limitations required for safety, security, and orderly operation of the Facility.<sup>15</sup> General correspondence is normally opened and inspected for contraband in the presence of the Detainee, but may be opened and even read outside the presence of the Detainee if security reasons exist for doing so.<sup>16</sup> Special correspondence, which includes all written communication to or from attorneys, legal representatives, judges, courts, government officials, the news media, is treated differently.<sup>17</sup> Incoming special correspondence can be inspected for contraband only in the presence of the Detainee, but it can never be read or copied.<sup>18</sup> Outgoing special correspondence cannot be opened, inspected, or read.<sup>19</sup>

The Detention Standards also require that the Facility provide Detainees with reasonable and equitable access to telephones.<sup>20</sup> In order to meet this

<sup>14</sup> Detainee interview notes of (b)(6)

<sup>15</sup> Detention Operations Manual, Detainee Services, Standard 4, Section I.

<sup>16</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.B & E.

<sup>17</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.B, E, & F.

<sup>18</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.B & E.

<sup>19</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.B & F.

<sup>20</sup> Detention Operations Manual, Detainee Services, Standard 15, Sections I & III.A.

standard, the Facility is required to provide at least one telephone for every 25 Detainees and written telephone access rules to each Detainee.<sup>21</sup>

Generally, Detainees are allowed unlimited use of the telephones between 9 a.m. and 10 p.m. However, calls to anyone other than a Detainee's attorney are a privilege that can be taken away. All non-attorney calls are monitored for content and recorded. In addition, the Detainee is allowed to call his or her attorney, at any time. While such calls are monitored, they are not monitored for content, and are not recorded. Guards will take written phone messages for Detainees, as well as deliver faxed messages from attorneys. Faxed messages are to be delivered the same day such messages are received, and a copy of the same are kept in the Detainee's file. All collect calls have a \$3.95 service charge. Additional charges include \$0.50 per local call; \$0.69/minute per Inter-LATA and Intra-LATA calls; and \$0.89/minute per Interstate calls. Each dormitory has one or two pods, which usually contain three telephones each. The telephone system has a language line that provides dozens of foreign language interpretation options.

Several of the Detainees complained that telephone calls are too expensive.<sup>22</sup> Most of the Detainees noted that they know how to use the Facility's telephone system for incoming and outgoing calls, and that there is rarely a wait for using the telephones.<sup>23</sup> None of the Detainees typically receive incoming calls; so they could not confirm whether the Facility staff is diligent about delivering telephone messages to Detainees. However, several Detainees noted that they had not timely

<sup>21</sup> Detention Operations Manual, Detainee Services, Standard 15, Sections III.B & C.

<sup>22</sup> Detainee interview notes of

<sup>23</sup> Detainee interview notes of

(b)(6)

received faxes at the Facility.<sup>24</sup> One Detainee recounted that he had received a fax from his attorney nearly three weeks after it was sent.<sup>25</sup>

One of the Detainees reported receiving mail that had been opened, but he was not sure whether it had been intentionally opened or merely improperly addressed.<sup>26</sup>

#### **IV. Other General Observations**

##### **A. Recreation**

The Detention Standards require the Facility to provide Detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare.<sup>27</sup> Every effort is to be made to provide outdoor recreation facilities, but, if such facilities are not available, the recreation room must be large, contain exercise equipment, and have access to sunlight.<sup>28</sup> The Facility is required to designate an individual responsible for the development and oversight of the recreation program.<sup>29</sup> According to the Detention Standards, the recreation area should “offer a variety of fixed and movable equipment.” Dayrooms at detention facilities should offer “board games, television, and other sedentary activities.” Further, cardiovascular exercise should be available to Detainees for whom recreation is unavailable.

Detainees at the Facility are allowed one hour of recreation, three times a day. However, only male Detainees are allowed to use the outdoor recreation

<sup>24</sup> Detainee interview notes of [REDACTED]

<sup>25</sup> Detainee interview notes of [REDACTED]

<sup>26</sup> Detainee interview notes of [REDACTED] (b)(6) It is not apparent whether this Detainee was aware that the Detention Standards allow the Facility to open Detainees’ mail.

<sup>27</sup> Detention Operations Manual, Detainee Services, Standard 13, Section I.

<sup>28</sup> Detention Operations Manual, Detainee Services, Standard 13, Section I.

<sup>29</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.F.

facility and, to prevent injury, they are not allowed to run or play ball. Female Detainees are restricted to the gym, which does not appear to contain any equipment. The reason given for keeping female Detainees from the outdoor facility is that it is visible to the male Detainees.

The Detainees noted that daily recreation is permitted depending on the weather, but that the recreation activities are severely limited.<sup>30</sup> The Detainees reported different information regarding the amount of recreation allowed – one Detainee noted that recreation was allowed in one-hour increments three times a day, but another stated that recreation was allowed only one hour per day.<sup>31</sup> The Detainees generally agreed that the lack of equipment severely limited the type of recreation activities available to Detainees.<sup>32</sup> The Detainees noted that recreation is limited to walking or sitting.<sup>33</sup> However, one Detainee noted that indoor recreational activities include television programs, books, and board games.<sup>34</sup>

## **B. Access to Medical Treatment**

The Detention Standards require that all Detainees have access to medical services that promote health and general well-being.<sup>35</sup> The Facility is required to maintain regularly scheduled “sick call” times, during which medical personnel are available to see Detainees who have requested medical services.<sup>36</sup> The Facility must also promulgate procedures for emergency medical care.<sup>37</sup> If a Facility staff

<sup>30</sup> Detainee interview notes of

<sup>31</sup> Detainee interview notes of

<sup>32</sup> Detainee interview notes of

<sup>33</sup> Detainee interview notes of

<sup>34</sup> Detainee interview notes of

<sup>35</sup> Detention Operations Manual, Health Services, Standard 2, Section I.

<sup>36</sup> Detention Operations Manual, Health Services, Standard 2, Section III.F.

<sup>37</sup> Detention Operations Manual, Health Services, Standard 2, Sections III.A, III.D, and III.G.

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member is uncertain whether a Detainee requires emergency medical care, he or she must immediately contact a health care provider or an on-duty supervisor.<sup>38</sup> If a Detainee is diagnosed with a medical or psychiatric condition that requires special attention, the medical care provider is required to notify the OIC in writing.<sup>39</sup> The Facility has two nurses on staff and a physician visits several times a week. The Facility does not offer mental health services.

Though the Facility staff stated that all medicines are supplied, the Delegation heard numerous complaints about the inadequacy of the Facility's medical treatment. Several Detainees claimed that they had not received their individual medications for several weeks and one Detainee noted that he was informed that he could not have a blood sugar test unless he paid \$5.00 for the test. One Detainee claimed that he has not been administered his AIDS medicine.<sup>40</sup> Another stated that he suffers from a hernia that has not been treated.<sup>41</sup> Another Detainee stated that he had been denied medical attention and threatened with strict detention – meaning that he would be sent to the maximum security facility in town – if he complained again.<sup>42</sup> He did not indicate the reason he needed medical attention. Another Detainee, who had never required medical assistance while in the Facility, told members of the Delegation that he knew of a Detainee who had been sent to a segregation unit for refusing medication.<sup>43</sup> Another Detainee stated that he experiences severe pain caused by dental problems but is

<sup>38</sup> Detention Operations Manual, Health Services, Standard 2, Sections III.H.

<sup>39</sup> Detention Operations Manual, Health Services, Standard 2, Section III.J.

<sup>40</sup> Detainee interview notes of [REDACTED]

<sup>41</sup> Detainee interview notes of [REDACTED]

<sup>42</sup> Detainee interview notes of [REDACTED]

<sup>43</sup> Detainee interview notes of [REDACTED]

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often made to wait several days for pain medication.<sup>44</sup> At the time of the Delegation’s visit, that Detainee had been waiting for a month for the INS to process a required approval for dental surgery.<sup>45</sup>

One of the Detainees stated that he had been denied a low-salt diet required for medical reasons.<sup>46</sup> In addition, another Detainee disputed the Facility staff’s claim that dietary needs are accommodated and reported that he had been told to throw out what he could not eat.<sup>47</sup> Detainees with special dietary needs are not served until after other Detainees are<sup>48</sup> served.

Some Detainees noted that they were aware of the procedures for requiring medical assistance and had never been denied medical attention.<sup>49</sup> One of these Detainees stated, however, that the Facility does not provide interpreters for medical visits.<sup>50</sup>

### **C. Grievance Procedures**

The Detention Standards require that the Facility develop and implement standard procedures for handling Detainee grievances, and encourage that the Facility try to resolve grievances informally if possible.<sup>51</sup> In addition, translation assistance for grievances must be provided upon request.<sup>52</sup> The Facility is also required to establish a reasonable time limit for: (i) “processing, investigating, and

<sup>44</sup> Detainee interview notes of (b)(6)

<sup>45</sup> Detainee interview notes of (b)(6)

<sup>46</sup> Interview notes of (b)(6)

<sup>47</sup> Interview notes of (b)(6)

<sup>48</sup> Detainee interview notes of (b)(6)

<sup>49</sup> Detainee interview notes of (b)(6)

<sup>50</sup> Detainee interview notes of (b)(6) It was not clear to the Delegation representatives whether an interpreter could be obtained for a Detainee who spoke no English but needed medical treatment.

<sup>51</sup> Detention Operations Manual, Detainee Services, Standard 8, Sections I & III.A.

<sup>52</sup> Detention Operations Manual, Detainee Services, Standard 8, Sections III.A.1 and 2.

responding to grievances;” (ii) “convening a grievance committee to review formal complaints;” and (iii) “providing written responses to Detainees who have filed formal grievances, including the basis for the decision.”<sup>53</sup> All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.<sup>54</sup> Finally, the Detention Standards state that Detainee Handbooks are to provide an explanation of grievance procedures, including the procedures for appealing decisions to the ICE, and information on how to file a complaint about officer misconduct directly with the Justice Department.

Overall, the Detainees were aware of the Facility’s grievance procedures. At least one of the Detainees who complained about a roommate was satisfied with the outcome.<sup>55</sup> The roommate was removed, and the complaining Detainee suffered no retaliation.<sup>56</sup> However, another Detainee stated that he was afraid to complain because he felt that complaining would make things worse.<sup>57</sup> Also, several of the Detainees noted that they had never received responses to their complaints.<sup>58</sup> For example, one Detainee noted that he had complained repeatedly about chronic pain caused by his mattress but that these complaints had not yet been addressed or resolved.<sup>59</sup>

One of the Detainees stated that he and other Detainees had recently filed a joint grievance relating to an incident in which a Facility guard refused to change

<sup>53</sup> Detention Operations Manual, Detainee Services, Standard 8, Section I.

<sup>54</sup> Detention Operations Manual, Detainee Services, Standard 8, Sections I and III.C.

<sup>55</sup> Detainee interview notes of [REDACTED]

<sup>56</sup> Detainee interview notes of [REDACTED] (b)(6)

<sup>57</sup> Detainee interview notes of [REDACTED]

<sup>58</sup> Interview notes of [REDACTED] (b)(6)

<sup>59</sup> Detainee interview notes of [REDACTED] (b)(6)

at least one of the televisions in the dormitory to a Spanish language channel.<sup>60</sup> The guard was relocated after this incident.

#### **D. Religious Services**

The Detention Standards require that Detainees be provided with reasonable and equitable opportunities to participate in the practices of their respective faiths.<sup>61</sup> According to the Detention Standards, these opportunities are to “exist for all [Detainees] equally, regardless of the number of practitioners of a given religion, whether the religion is ‘mainstream,’ ...or other such factors.” Further, the opportunities are to be “constrained only by concerns about safety, security, orderly operation, or extraordinary costs associated with a specific practice.”<sup>62</sup> The Facility’s staff is to make “all reasonable efforts to accommodate” special food services necessitated by a Detainee’s religion.<sup>63</sup>

The Facility provides a non-denominational religious service in both English and Spanish every Sunday. In addition, the Facility provides counseling via Christian clergy. Special diets, including vegetarian and pork-free, are available to Detainees. While Detainees are permitted to keep a Bible or Koran in their personal possession, they are not permitted to keep crosses or other religious items.

Four of the Detainees interviewed identified themselves as Christian, two expressed no particular religious affiliation, and two did not address their religious beliefs at all. Most of the Detainees were aware that the Facility offers weekly religious services, but none appeared to attend regularly. One Detainee noted that

<sup>60</sup> Detainee interview notes of (b)(6)

<sup>61</sup> Detention Operations Manual, Detainee Services, Standard 14, Section I.

<sup>62</sup> Detention Operations Manual, Detainee Services, Standard 14, Section I.

<sup>63</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

he was not sure whether the Facility accommodated dietary restrictions related to religion and noted that he found it difficult to remain a vegetarian in the Facility.<sup>64</sup> It was also mentioned that free Bibles were provided to Detainees but that Korans had to be purchased.<sup>65</sup> While none of the Detainees reported being subjected to harassment based on his religion, one Detainee noted that the Facility did not allow him to wear religious symbols or clothing.<sup>66</sup>

### **E. Documents and Supplies**

The Detention Standards require the Facility to ensure each Detainee can obtain photocopies of legal materials when such copies are reasonable and necessary for the Detainee's legal proceedings.<sup>67</sup> Enough copies should be provided so that a Detainee can fulfill court procedural rules and retain copies for his or her records.<sup>68</sup> Facility staff are not supposed to read any document that on its face is clearly related to a Detainee's legal proceeding.<sup>69</sup>

Detainees are permitted to keep legal documents in their lockers but a few Detainees complained that their documents were disrupted during inspections.<sup>70</sup> Though some Detainees were aware of the procedures for making photocopies, they reported different photocopy costs ranging from 15 cents per page to 25 cents per page.<sup>71</sup> Photocopies are made by Facility staff and are usually provided to the Detainees within 24 to 48 hours of their written request. One Detainee noted that

<sup>64</sup> Detainee interview notes of (b)(6) — the Detainee is a vegetarian for health, not religious, reasons.

<sup>65</sup> Interview notes of (b)(6)

<sup>66</sup> Detainee interview notes of (b)(6)

<sup>67</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>68</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>69</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>70</sup> Interview notes of (b)(6)

<sup>71</sup> Detainee interview notes of (b)(6)

his photocopies were returned in a “mutilated” state.<sup>72</sup> Detainees reported that they are allowed three stamps and five sheets of paper per week at no cost, and that additional supplies were available from the commissary.<sup>73</sup> However, several Detainees complained that the commissary prices for supplies and other items are too expensive.<sup>74</sup>

#### **F. Volunteer Work Programs**

The Detention Standards require all facilities with work programs to provide Detainees with the opportunity to work and earn money.<sup>75</sup> Detainees who are physically and mentally able to work must be allowed the opportunity to participate in any voluntary work program.<sup>76</sup> The Detention Standards require facilities to permit physically and/or mentally challenged Detainees to undertake “appropriate work projects.”<sup>77</sup>

The Detainees’ reports on work programs varied. At least one Detainee stated that the Detainees were not eligible for work programs and thus had no means of earning money.<sup>78</sup> However, another Detainee noted that he was aware of the program, but chose not to participate.<sup>79</sup> Finally, another Detainee mentioned that the only work Detainees are permitted to do is clean the common areas of the Facility.<sup>80</sup>

#### **H. Dormitories**

<sup>72</sup> Detainee interview notes of [REDACTED]

<sup>73</sup> Detainee interview notes of [REDACTED]

(b)(6)

<sup>74</sup> Detainee interview notes of [REDACTED]

<sup>75</sup> Detention Operations Manual, Detainee Services, Standard 17, Section I.

<sup>76</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.A.

<sup>77</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.G.

<sup>78</sup> Interview notes of [REDACTED]

(b)(6)

<sup>79</sup> Detainee interview notes of [REDACTED]

<sup>80</sup> Detainee interview notes of [REDACTED]

(b)(6)

The male Detainees are housed in open dormitories with two wings of 32 bunk beds. Female Detainees are housed in one dormitory with 32 bunk beds. Clothing and linens are changed on a weekly basis, and Detainees each receive three fresh sets.

Several of the Detainees complained about the sleeping situation in the Facility dormitories.<sup>81</sup> They noted that the mattresses were very thin and uncomfortable, and that the dormitories were very noisy.<sup>82</sup> While no one was required to sleep on the floor at the time of the Delegation's visit, it was noted that there were mattresses on the floor of the female dormitory in case of overload. Several of the Detainees indicated that they did not know whether they were classified as Level 1, 2, or 3,<sup>83</sup> and some Detainees complained about being intermingled with Inmates.<sup>84</sup> At least one of the Detainees signed a petition asking that Detainees and Inmates be housed separately.<sup>85</sup> However, at least one Detainee noted that he had never been intermingled with Inmates.<sup>86</sup>

One of the Detainees relayed an extremely disturbing story about a fellow Detainee who was housed in a dormitory with Inmates.<sup>87</sup> Approximately one week before the Delegation's visit, an Inmate forced his penis into the mouth of a sleeping Detainee.<sup>88</sup> The victim reported the incident to the Facility staff and the Inmate

<sup>81</sup> Detainee interview notes of [REDACTED]

<sup>82</sup> Detainee interview notes of [REDACTED] (b)(6)

<sup>83</sup> Detainee interview notes of [REDACTED]

<sup>84</sup> Detainee interview notes of [REDACTED] (b)(6) Without knowing the classification levels of the interviewed Detainees, it is not possible for the Delegation to determine whether the Facility's intermingling policy is followed.

<sup>85</sup> Detainee interview notes of [REDACTED]

<sup>86</sup> Detainee interview notes of [REDACTED]

<sup>87</sup> Detainee interview notes of [REDACTED] (b)(6)

<sup>88</sup> Detainee interview notes of [REDACTED]

was transferred to another dormitory.<sup>89</sup> Currently, the Detainee is attempting to press charges against the Inmate.<sup>90</sup> The interviewed Detainee blamed the incident on poor supervision by Facility staff and expressed frustration that, even after this incident, Detainees and Inmates continue to be intermingled without proper supervision by Facility staff.<sup>91</sup>

## **V. Recommendations**

### **A. Law Library and Legal Materials**

We recommend that attention be given to the legal library at the Facility. Currently only one computer (with CD-ROM access to LEXIS) is available to all of the Detainees (and Inmates) at the Facility. This provides a number of advantages in that (i) it allows access to a large amount of legal material that is updated periodically, (ii) it does not have the expenses and upkeep requirements of a "paper" library, (iii) it is mobile, and (iv) it does not take up a great deal of space at the Facility.

Unfortunately, the detriments of this "one-computer library" far outweigh the benefits. First of all, it must be shared by approximately 400 Detainees and Inmates. If there were a demand for the use of this computer, it would be difficult for access to be had by the Detainees and Inmates because only one person at a time can use it. Also, most of the Detainees (i) do not speak and/or write English well, (ii) do not have much, if any, of a formal education, and (iii) have little, if any,

<sup>89</sup> Detainee interview notes of [REDACTED]

<sup>90</sup> Detainee interview notes of [REDACTED]

<sup>91</sup> Detainee interview notes of [REDACTED]

(b)(6)

experience and comfort with using computers. Using a computer can be intimidating to many people, even those who have excellent English skills and post-secondary educations. Using LEXIS to search legal materials for specific information is difficult, even for many attorneys. There were written instructions available for use of the computer; however, on our visit we learned that many of the guards and other staff members of the Facility had only a limited idea, if any, of how to use LEXIS. As a result, Detainees cannot rely on in-house training on the use of LEXIS by Facility guards or staff.

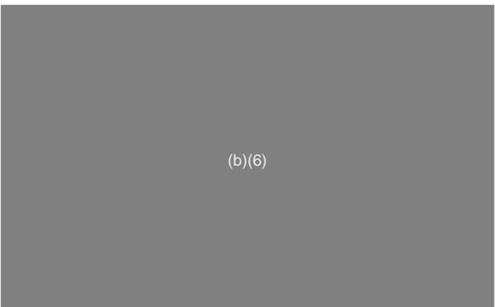
All in all, we believe the "one-computer library" only creates the appearance of offering a legal library to Detainees. Though the cost of maintaining a "paper" library is probably cost-prohibitive, there must be a better way of providing legal materials to Detainees. Procuring volunteer attorneys for LEXIS training might be a viable solution; however, training several Detainees on one computer makes this idea counterproductive. Also, multiple training sessions would probably be required because, arguably, the only way to learn how to use LEXIS is to use it, and given the reduced English and educational skills of the Detainees, a great deal of use would probably be necessary to adequately train them. We recommend that Detainees have some access to "paper" legal materials, in addition to computer access. We believe additional computers should be made available for research and training should be offered and available to Detainees. Additionally, "paper" materials in English and Spanish would be useful. We do not believe that these recommendations are the perfect solution; however, the current access to legal materials is extremely deficient and in need of modification.

## **B. Recreation for Female Detainees**

At the time of the Delegation's visit, female Detainees were not permitted outdoor recreation. We believe that female Detainees should be given access to outdoor recreation opportunities.

## **VI. Conclusion**

While we felt that the Facility was clean and orderly, we strongly believe that changes must be implemented in the Facility's law library in order to provide Detainees with the required access to legal materials. In addition, female Detainees should have access to outdoor recreation like the male detainees.



(b)(6)

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## Response to the Kenosha County Detention Center (KCDC) ABA Report

### Detainee Handbook

The report claims that there are many deficiencies in the KCDC Detainee Handbook. This finding is unfounded. KCDC uses locked, wall-mounted bulletin boards to inform detainees of jail policy and procedures. The administration has found this method to be more reliable and cost efficient than handbooks, which can be torn up, worn out or thrown away. KCDC complies the intent of the Standard by making sure the detainees are well informed of policies and procedures by posting the information in the housing units.

### Law Library

KCDC was not designed to have a separate room functioning as a Law Library. The Standards require “a designated room with sufficient space to facilitate detainees’ legal research and writing”. Each housing unit has a multi-purpose room, which is used for classes, programs, etc. Detainees use the Law Library computer in this room and are afforded privacy as needed to complete their legal research. The Law Library computer is not available to general population inmates as stated in the report.

The Detention Standards state that INS would provide the materials listed in “Attachment A” and that INS would update and maintain these materials. It was determined that this would be cost prohibitive and INS stopped issuing these materials after the first sets were issued and replaced them with the LexisNexis Law Library on CD-ROM. The Law Library is maintained on a computer dedicated for use by ICE detainees and is not available to the county inmate population as erroneously stated in the report. The facility administration monitors the use of the ICE Law Library computer and will add additional equipment if indicated by detainee usage. To date, this has not been necessary.

### Telephone Access

KCDC allows ICE detainees to request the opportunity to use a private phone to make legal calls. The facility will take emergency messages for ICE detainees but, with a total inmate population of 400, is not equipped to take messages that are personal in nature. Detainees are informed about the telephone policy in the housing unit.

### Recreation

Female detainees do not have access to Outdoor Recreation at this facility due to the fact that all such rec areas can be observed from male housing units. Female detainees have one hour of rec per day in the gym. The majority of female ICE detainees are usually housed at this facility for only 2 – 3 months and are therefore within the 180-day time limit for facilities without outdoor rec. This is being monitored and, after 180 days, female detainees are offered the opportunity to move to a facility offering outdoor rec.

### Work Programs

This facility does not pay inmate workers but compensates them with time off their sentence. For this reason, ICE detainees can’t work in the kitchen, laundry, or janitorial

areas. ICE detainees do participate in the daily cleaning of housing units that all inmates and detainees are required to do. There is no compensation for this work.

#### Medical Treatment – Dental Care

A dentist visits the jail on a regular schedule every two weeks. While arriving detainees do not receive a specific dental screening by a dentist, this is included in the general physical and medical screening that arriving detainees are given. Dental issues, which are identified at this time, are referred to the dentist.