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MEMORANDUM

September 12, 2006

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

From: American Bar Association Delegation to the Lerdo¹ Pre-Trial Facility

Copies to: (b)(6) ABA Commission on Immigration

Subject: Report on Observational Tour of the Lerdo Pre-Trial Facility, Kern County, California

This memorandum summarizes and evaluates information gathered at the Lerdo Pre-Trial Facility (“LPTF” or “the facility”) in Kern County, California, during the delegation’s August 1, 2006 visit to the facility. The information was gathered via observation of the facility by the delegation, interviews with detainees, and discussions with LPTF and Immigration and Customs Enforcement (“ICE”) personnel.

I. ICE DETENTION STANDARDS

In November 2000, the Immigration and Naturalization Service (INS),² 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. 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 (“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

¹ The delegation was comprised of attorneys and summer associates from the Los Angeles office of Latham & Watkins LLP, including (b)(6) and (b)(6)

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

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 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 Visit, August 1, 2006

On Tuesday, August 1, 2006, the members of our delegation met with several members of LPTF’s staff. ICE Supervisory Detention and Deportation Officer (b)(6), (b)(7)c and Kern County officers Senior Deputy (b)(6), (b)(7)c and Sergeant (b)(6), (b)(7)c led our delegation on a tour of the facility. The delegation also spoke at length with the law librarian, Willa Crump. The delegation appreciates the cooperation of these individuals; they were direct and accommodating during our tour of the facility.

Our report is based on the discussions we had with these LPTF employees, as well as observations of the facility and interviews with several immigration detainees. In some 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 LPTF’s policy and procedures successfully meet the Standards. However, in certain instances, the detainees’ reports conflicted with statements made by facility personnel. Where we were unable to verify the conflicting reports, the delegation was unable to conclusively determine whether the Standards are met.

B. General Information About the Lerdo Pre-Trial Facility

The Lerdo Pre-Trial Facility houses federal immigration detainees according to an intergovernmental service agreement (“IGSA”) with ICE. ICE pays LPTF a per diem of \$68 per detainee.³ According to the LPTF personnel, the facility has a capacity to hold approximately 244 detainees, and at the time of our visit, there were approximately 198 federal detainees.⁴ LPTF contains 6 units, each with 7 pods that hold 32 inmates each.⁵ There is a separate unit for Administratively Segregated inmates.⁶

During our visit, we were able to walk through H Pod. It is difficult to say for certain how many inmates in H Pod are ICE detainees. An interview with a detainee suggested that some county prisoners are mixed in with the federal detainees.⁷ Detained women, who numbered 22 at the time of our visit, are housed in B Pod.⁸ Supervisor (b)(6), (b)(7)c told the

³ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c
⁴ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c
⁵ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
⁶ Notes of delegation member (b)(6) conversation with Senior Deputy (b)(6), (b)(7)c
⁷ Notes of delegation member (b)(6) on conversation with anonymous detainee.
⁸ Notes of delegation member (b)(6) conversation with Supervisor (b)(6), (b)(7)c

delegation that the facility housed immigration detainees from many different countries, including Mexico, Honduras, Guatemala, as well as several countries in Southeast Asia.⁹

Although the Lerdo Facility is a pre-trial facility, all ICE detainees at the facility are “final order” cases, meaning that judgment has been entered in their cases and they are being detained pending appeal, petition for review, or expiration of the 90-day removal period.¹⁰ According to Supervisor (b)(6), (b)(7)c, the national average length of stay in ICE detention is around fifteen or sixteen days, but the actual stay depends on how difficult it is to obtain travel documents, whether the detainee has a criminal record, and myriad other factors.¹¹ One detainee stated that he had been in custody for five months, and another stated he had been in ICE detention for fourteen months.¹² It is unknown if the length of detention for these detainees is based on a pending appeal or petition.

III. LEGAL ACCESS STANDARDS

A. Legal Access/Visitation

1. Visitation by Attorneys

The Standards suggest that facilities permit legal visitation seven days per week.¹³ Attorneys should have access to their clients eight hours per day during the week and four hours per day during the weekend.¹⁴ The visits must be private, and should not be interrupted for head counts.¹⁵

LPTF meets this section of the Standards. Attorneys may visit the detainees seven days per week.¹⁶ The Inmate Orientation pamphlet states that “Attorneys and their representatives shall have unlimited visitation. Every effort will be made to allow Attorney visits at any time and in a timely manner.”¹⁷

A detainee is allowed to continue an attorney visit through a meal or recreation time.¹⁸ If a detainee misses a meal because of an attorney visit, the meal is left for the detainee in the pod.¹⁹ If a detainee misses recreation time, he/she can join the next group that goes out.²⁰

The visitor area for H Pod has approximately two attorney visitation booths.²¹ There is one contact booth and one that is paper pass through only.²² LPTF staff can not listen in on

⁹ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c
¹⁰ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c
¹¹ Notes of delegation member (b)(6) on conversation with Supervisor (b)(6), (b)(7)c
¹² Notes of delegation member (b)(6) on conversation with detainee (b)(6); notes of delegation member (b)(6) on conversation with detainee (b)(6)
¹³ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.
¹⁴ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.
¹⁵ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.9.
¹⁶ Notes of delegation (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁷ Inmate Orientation pamphlet, “Access to Counsel.”
¹⁸ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁹ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
²⁰ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

attorney visits, but will visually monitor them.²³ Inmates are not strip searched after attorney visits.²⁴ However, if the detainee travels off-site for any reason, he or she will be strip searched upon re-entry at the facility.²⁵

2. Visitation by Family and Friends

The Standards suggest that facilities establish written visitation hours and procedures, and make them available to the public.²⁶ This includes procedures for handling incoming money for detainees.²⁷ The visiting area is to be “appropriately furnished and arranged, and as comfortable and pleasant as practicable.”²⁸ 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.²⁹ Visits should be at least 30 minutes long and longer when possible.³⁰ 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.³¹ 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.³²

LPTF substantially meets this section of the Standards, although some detainees may not receive visitors on weekends, and visits may be shorter than 30 minutes on busy days. The visitation schedule is included in the Inmate Orientation pamphlet. It provides that visiting may occur from 12:00 pm to 2:30 pm and from 6:00 pm to 8:30 pm.³³ This schedule is posted in the pod next to the phones.³⁴ Visitation days are allocated according to the first letter of each detainee’s last name such that each detainee may receive visitors two days per week.³⁵ Some detainees, depending on their names, may not receive visitors on weekends.³⁶ The Inmate Orientation pamphlet caps the visits at two thirty-minute visits per week.³⁷ According to Senior Deputy (b)(6), (b)(7)c, LPTF generally confines visits to these hours, but may allow deviations under extenuating circumstance, such as a visitor from over 100 miles away.³⁸ Although visits last 30

²¹ Observations of delegation member (b)(6)

²² Observations of delegation member (b)(6)

²³ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

²⁴ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

²⁵ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

²⁶ Detention Operations Manual, Detainee Services, Standard 17, Section III.A & B.

²⁷ Detention Operations Manual, Detainee Services, Standard 17, Section III.D.

²⁸ Detention Operations Manual, Detainee Services, Standard 17, Section III.G.

²⁹ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

³⁰ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

³¹ Detention Operations Manual, Detainee Services, Standard 17, Section III.H.2.

³² Detention Operations Manual, Detainee Services, Standard 17, Section III.H.5.

³³ Inmate Orientation pamphlet, “Visiting.”

³⁴ Observation of delegation member (b)(6)

³⁵ Inmate Orientation pamphlet, “Visiting.”

³⁶ Inmate Orientation pamphlet, “Visiting.”

³⁷ Inmate Orientation pamphlet, “Visiting.”

³⁸ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

minutes, detainees may combine their two thirty minute blocks into an hour visit.³⁹ All visits are non-contact and can include two adults and 2 children.⁴⁰ One detainee indicated that while visits are supposed to last for 30 minutes, he has had visits on busy visitation days cut short.⁴¹

Visitors may leave money for a detainee’s commissary account or send money to the detainee through the mail.⁴² At the commissary, detainees may purchase stationary supplies and snacks.⁴³

B. Telephone Access

1. General Requirements

The Standards require that facilities provide detainees with reasonable and equitable access to telephones during established facility waking hours.⁴⁴ In order to meet this requirement, facilities must provide at least one telephone for every 25 detainees.⁴⁵ The Standards also require that telephone access rules be provided in writing to each detainee upon admittance, and that the rules be posted where detainees may easily see them.⁴⁶

LPTF meets this section of the Standards. The H Pod observed by the delegation had two phones and the number was approximately one phone per 16 detainees.⁴⁷ According to the LPTF Inmate Orientation pamphlet, “Inmates not on disciplinary isolation will be allowed reasonable access to collect call only telephones.”⁴⁸ The telephones are accessible as available in the day room, generally from 7 a.m. to 10 p.m. daily.⁴⁹

2. Direct Calls and Free Calls

The Standards allow facilities to generally restrict calls to collect calls;⁵⁰ however, the facility must permit detainees to make direct calls to the local immigration court and the Board of Immigration Appeals, federal and local courts, consular officials, legal service providers, government offices, and to family members in case of emergency.⁵¹ The facility shall not require indigent detainees to pay for these types of calls if local, nor for non-local calls if there is a compelling need.⁵² In addition, the facility “shall enable all detainees to make calls to the

³⁹ Inmate Orientation pamphlet, “Visiting”; notes of delegation member (b)(6), (b)(7)c on conversation with Senior Deputy (b)(6)

⁴⁰ Inmate Orientation pamphlet, “Visiting”; notes of delegation member (b)(6), (b)(7)c on conversation with Senior Deputy (b)(6), (b)(7)c

⁴¹ Notes of delegation member (b)(6) on conversation with anonymous det

⁴² Notes of delegation member (b)(6) conversation with Senior Deputy (b)(6), (b)(7)c

⁴³ Notes of delegation member (b)(6), on conversation with Senior Dep (b)(6), (b)(7)c

⁴⁴ Detention Operations Manual, Detainee Services, Standard 16, Sections I & III.A.

⁴⁵ Detention Operations Manual, Detainee Services, Standard 16, Section III.C.

⁴⁶ Detention Operations Manual, Detainee Services, Standard 16, Section III.B.

⁴⁷ Observation of delegation member (b)(6)

⁴⁸ Inmate Orientation pamphlet, “Access to Telephones.”

⁴⁹ Notes of delegation member (b)(6), on conversation with Senior Deputy (b)(6), (b)(7)c

⁵⁰ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁵¹ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁵² Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

[ICE]-provided list of free legal service providers and consulates at no charge to the detainee or the receiving party.”⁵³

It is unclear whether LPTF meets this section of the Standards; several detainees said LPTF did not provide the list of consulates and legal service providers until the day before the delegation’s visit, and indigent detainees are unable to make calls free of charge. The delegation observed a posted sign indicating that a pin number and an alien number are required to make consular or pro bono legal service provider calls free of charge.⁵⁴ Delegation members attempted to use the phones and found them difficult to operate.⁵⁵ Calling card calls are charged at a rate of \$3.69 for first minute of long distance, \$9.90 for 10 minutes, \$3.05 for first minute of local and \$3.95 for 10 minutes.⁵⁶ LPTF does not allow free calls, even in cases of indigence; detainees must make collect calls.⁵⁷ One detainee stated that he had difficulty contacting his attorney because of a lack of money, since all of the calls are either collect calls or done through a pre-paid calling card purchased at the commissary.⁵⁸

Two detainees stated that the postings in the pod stating contact numbers for attorneys and consulates had only been posted on the day of the delegation’s visit, and they had never seen those materials before.⁵⁹ A third detainee described his inability to locate a pro bono attorney because he was required to call collect and many do not accept collect calls.⁶⁰

3. Telephone Access to Legal Representatives

The Standards provide that the facility shall not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by automatic cutoff, unless necessary for security purposes or to maintain orderly and fair access to telephones.⁶¹ If time limits are necessary, they shall be no shorter than 20 minutes.⁶² The Standards require that the facility ensure privacy for detainees’ telephone calls regarding legal matters.⁶³

LPTF does not meet this section of the Standards; there are no privacy safeguards, and call monitoring appears to inhibit legal calls. Detainees are unable to make private legal telephone calls, because the phones where detainees make outgoing calls are all located in the public dayrooms with no privacy safeguards.⁶⁴ The telephones are out in the open, and there are no partitions.⁶⁵ According to LPTF personnel, there is a procedure whereby inmates may contact

⁵³ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁵⁴ Observation of delegation member [REDACTED]

⁵⁵ Observation of delegation member [REDACTED] (b)(6)

⁵⁶ Observation of delegation member [REDACTED]

⁵⁷ Notes of delegation member [REDACTED], on conversation with Senior Deputy [REDACTED] (b)(6), (b)(7)c, b7d

⁵⁸ Notes of delegation member [REDACTED] (b)(6) on conversation with anonymous detainee.

⁵⁹ Notes of delegation member [REDACTED] on conversation with anonymous detainee; notes of delegation member [REDACTED] (b)(6), on conversation with anonymous detainee.

⁶⁰ Notes of delegation member [REDACTED] b6 on interview with detainee [REDACTED] (b)(6), (b)(7)c

⁶¹ Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

⁶² Detention Operations Manual, Detainee Services, Standard 16, Section F.

⁶³ Detention Operations Manual, Detainee Services, Standard 16, Section J.

⁶⁴ Observation of delegation member [REDACTED]

⁶⁵ Observation of delegation member [REDACTED] (b)(6)

a chaplain and get access to a private phone if there is a family problem.⁶⁶ As this procedure is not included in the Inmate Orientation pamphlet, it is uncertain if detainees know that this is available. All phone calls made from a pod are recorded, though LPTF personnel state that calls are only listened to if something happens or they get a tip.⁶⁷ One detainee expressed concerns about privacy because everybody knew that all calls, including legal calls, were recorded by the facility.⁶⁸

4. Incoming Calls and Messages

The Standards suggest that facilities take and deliver messages from attorneys and emergency incoming telephone calls to detainees as promptly as possible.⁶⁹ If the facility receives an emergency telephone call for a detainee, the Standards suggest that the facility obtain the caller's name and number and permit the detainee to return the emergency call as soon as possible.⁷⁰

LPTF does not meet this section of the Standards; messages are not accepted at LPTF.⁷¹

5. Telephone Privileges in Special Management Unit

The Standards provide that detainees in the Special Management Unit ("SMU") for disciplinary reasons shall be permitted to make direct and/or free calls, except under compelling security conditions.⁷²

It is uncertain whether LPTF meets this section of the Standards. The delegation was unable to visit the Administratively Segregated unit at the facility, but LPTF personnel stated that there is one telephone in each pod.⁷³

C. Access to Library and Legal Material

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."⁷⁴

⁶⁶ Notes of delegation member (b)(6), on conversation with Senior Deputy (b)(6), (b)(7)c, b6, b7c

⁶⁷ Notes of delegation member (b)(6), on conversation with Officer (b)(6), (b)(7)c, b6, b7c

⁶⁸ Notes of delegation member (b)(6) on conversation with anonymous detainee.

⁶⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

⁷⁰ Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

⁷¹ Notes of delegation member (b)(6), on conversation with Senior Deputy (b)(6), (b)(7)c, b6, b7c

⁷² Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

⁷³ Notes of delegation member (b)(6), on conversation with Officer (b)(6), (b)(7)c, b6, b7c

⁷⁴ Detention Operations Manual, Detainee Services, Standard 1, Section I.

1. Library Access

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.⁷⁵ Each detainee shall be permitted to use the law library for a minimum of five hours per week.⁷⁶

LPTF appears to meet this section of the Standards; however, there may be some delay in accessing the library for those in Administrative Segregation. LPTF allows all inmates access to the law library, including, Administratively Segregated inmates who are allowed with inmates of their same classification.⁷⁷ However, the law librarian stated that Administratively Segregated inmates are only allowed to visit the library one at a time, so they may end up waiting longer to use the library than other inmates.⁷⁸ Inmates must submit an access slip to gain access to the library, and are generally called on a first come first serve basis; however, pro se inmates receive priority.⁷⁹

One detainee reported that after submitting a request to visit the law library, it takes approximately 4 days to gain library access.⁸⁰

2. Library Conditions

The Standards require that a facility provide a law library with sufficient space to facilitate detainees' legal research and writing.⁸¹ Furthermore, it must be large enough "to provide reasonable access to all detainees who request its use. It shall contain a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas."⁸²

LPTF appears to meet this section of the Standards. The law library is well lit, has ample space, and is well-isolated from noise and foot traffic.⁸³ However, one detainee complained that the library is generally overcrowded and detainees have little time to use the materials or computer.⁸⁴

⁷⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁷⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁷⁷ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

⁷⁸ Notes of delegation member (b)(6) on conversation with librarian (b)(6)

⁷⁹ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

⁸⁰ Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

⁸¹ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

⁸² Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

⁸³ Observations of delegation member (b)(6)

⁸⁴ Notes of delegation member (b)(6) on conversation with anonymous detainee.

3. 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*.⁸⁵ 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.⁸⁶ Damaged or stolen materials must be promptly replaced.⁸⁷

LPTF does not fully meet this section of the Standards. LPTF does not have all of the materials listed in Attachment A to the chapter on *Access to Legal Materials*. We noted the following texts were not in the library.⁸⁸ We did not see a posted list of the library's holdings.⁸⁹

- Constitution of the United States of America: Analysis and Interpretation
- Immigration Law and Defense, by the National Lawyer's Guild
- Immigration Law and Crimes, by the National Immigration Project of the National Lawyer's Guild
- Human Rights Watch – World Report
- UNHCR Handbook on Procedures and Criteria for Determining Refugee Status
- Considerations for Asylum Officers Adjudicating Asylum Claims for Women
- Immigration and Naturalization Service Basic Law Manual
- Lawyer's Committee Handbook on Representing Asylum Applicants
- Rights of Prisoners by Michael B. Mushlin
- United States Code, Title 28. Rules Appellate Procedure Pamphlets I+II
- Legal Research & Writing: Some Starting Points, 4th ed., by William P. Statsky
- Spanish-English Law Dictionary, by Solis
- Directory of Nonprofit Agencies that Assist Persons in Immigration Matters
- Translation Dictionaries (other than Spanish)

4. 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.⁹⁰

LPTF substantially meets this section of the Standards; however, the library only had one functioning computer. LPTF generally has at least two computers available in its law library.⁹¹ However, at the time of our visit, the second computer's hard drive had been missing for two months, so only one computer was operable.⁹² One detainee indicated that there is

⁸⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

⁸⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

⁸⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.F.

⁸⁸ Observations of delegation member (b)(6)

⁸⁹ Observations of delegation member (b)(6)

⁹⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

⁹¹ Observation of delegation member (b)(6)

⁹² Observations of delegation member (b)(6) notes of delegation member (b)(6) on conversation with anonymous detainee.

usually a wait to use the typewriters and computers in the library, and that each detainee can only use a machine for a half hour.⁹³ Delegation member (b)(6) attempted to use the computer, and it froze after 5 minutes.⁹⁴ Further complicating use of the one operating computer was the fact that there was no mouse, so it was difficult to navigate the pages.⁹⁵ The delegation was able to access Lexis Nexis CD on Folio 4 on the computer.⁹⁶

Librarian (b)(6) said that she provides unlimited free paper for notes and for the typewriters and computers. Indigent detainees get free stamps and envelopes as needed.⁹⁸

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.⁹⁹ Enough copies must be provided so that a detainee can fulfill court procedural rules and retain a copy for his records.¹⁰⁰ Facility personnel may not read a document that on its face is clearly related to a legal proceeding involving the detainee.¹⁰¹

LPTF appears to meet this section of the Standards. According to Librarian (b)(6) copies in the photocopy machine are ten cents per page, and detainees can make as many copies as they can afford.¹⁰² Pro se inmates can get free copies, but a sign posted on the librarian's desk limits pro se detainees to five free copies of legal forms excluding solicitation of attorneys (unless a court requires more copies), and one copy of each case decision.¹⁰³ The sign also stated that an Inmate Services Sergeant must approve all exceptions to the copy rules.¹⁰⁴

One detainee indicated that it was easy to make copies in the library and that there was no limit on the number of copies.¹⁰⁵ On one occasion when he was not able to make copies because the machine did not work, he was told that as soon as it was fixed he could make the copies.¹⁰⁶ The same detainee also stated that he had never had a problem keeping legal documents with him.¹⁰⁷

⁹³ Notes of delegation member (b)(6) on conversation with anonymous detainee.

⁹⁴ Observation of (b)(6)

⁹⁵ Observation of (b)(6)

⁹⁶ Observation of (b)(6)

⁹⁷ Notes of delegation member (b)(6) on conversation with Librarian (b)(6)

⁹⁸ Notes of delegation member (b)(6) on conversation with anonymous detainee.

⁹⁹ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

¹⁰⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

¹⁰¹ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

¹⁰² Notes of delegation member (b)(6) on conversation with Librarian (b)(6)

¹⁰³ Observations of delegation member (b)(6)

¹⁰⁴ Observations of delegation member (b)(6)

¹⁰⁵ Notes of delegation member (b)(6) on conversation with anonymous detainee.

¹⁰⁶ Notes of delegation member (b)(6) on conversation with anonymous detainee.

¹⁰⁷ Notes of delegation member (b)(6) on conversation with anonymous detainee.

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.”¹⁰⁸ Informational posters are to be prominently displayed in the housing units at least forty-eight hours in advance of a scheduled presentation.¹⁰⁹ While the presentations are open to all detainees, the facility “may limit the number of detainees at a single session.”¹¹⁰ “The facility shall select and provide an environment conducive to the presentation, consistent with security.”¹¹¹ In addition, detainees shall have regular opportunities to view an “INS-approved videotaped presentation on legal rights.”¹¹²

It is unclear whether LPTF meets this section of the Standards; several detainees indicated that they had not seen the Know Your Rights video. According to LPTF personnel, there are no restrictions on group rights presentations.¹¹³ However, LPTF personnel informed us that there have not been any presentations in recent years because no outside group has requested to make such a presentation.¹¹⁴

LPTF personnel stated that the “Know Your Rights” video is aired on the televisions inside the facility every morning during “chow time.”¹¹⁵ Two detainees stated that they had never seen the video played on the television in the H Pod, and that the television was typically off during meals.¹¹⁶ Another detainee also stated that he had never seen the “Know Your Rights” video, nor seen the “Know Your Rights” materials in the library.¹¹⁷

IV. OTHER PROVISIONS OF THE ICE DETENTION STANDARDS

A. Correspondence and Other Mail

The Standards require that 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.¹¹⁸ General correspondence shall normally be 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.¹¹⁹ Special correspondence—which includes all written communication to or from attorneys, legal representatives, judges, courts, government officials,

¹⁰⁸ Detention Operations Manual, Detainee Services, Standard 9, Section I.

¹⁰⁹ Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

¹¹⁰ Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

¹¹¹ Detention Operations Manual, Detainee Services, Standard 9, Section III.E.

¹¹² Detention Operations Manual, Detainee Services, Standard 9, Section III.I.

¹¹³ Notes of delegation member (b)(6), on conversation with Senior Deputy (b)(6), (b)(7)c

¹¹⁴ Notes of delegation member (b)(6), on conversation with Senior De

¹¹⁵ Notes of delegation member (b)(6), on conversation with Senior Deputy (b)(6), (b)(7)c

¹¹⁶ Notes of delegation member (b)(6), on conversation with detainee (b)(6) notes of delegation member (b)(6) on conversation with detainee (b)(6)

¹¹⁷ Notes of delegation member (b)(6), on conversation with anonymous detainee.

¹¹⁸ Detention Operations Manual, Detainee Services, Standard 3, Section I.

¹¹⁹ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.

and the news media—is treated differently.¹²⁰ Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but it can never be read or copied.¹²¹ Outgoing special correspondence cannot be opened, inspected, or read.¹²² The Standards also require that facilities provide indigent detainees with free envelopes and stamps for mail related to a legal matter, including correspondence to a legal representative, potential representative, or any court.¹²³ Finally, the Standards require that facilities notify detainees of specific information regarding correspondence policies.¹²⁴

LPTF does not fully meet this section of the Standards; the facility does not notify detainees of required information regarding correspondence, and two detainees reported serious mail delays. The only information in the Inmate Orientation pamphlet regarding correspondence provides “To ensure the maintenance of important ties with families, friends, attorneys, and the community, inmates are allowed to send or receive an unlimited amount of mail to or from any person, except other inmates of the Kern County Sheriff, including magazines, periodicals & newspapers directly from the publisher. This does not include pornographic materials.”¹²⁵ However, these notifications do not provide the following information as required: 1) “the definition of special correspondence, including instructions on the proper labeling for special correspondence . . . [and a] statement that it is the detainee’s responsibility to inform senders of special mail of the labeling requirement.”; 2) the fact that detainees may not send or receive packages without advance approved arrangements; 3) the fact that identity documents, such as passports and birth certificates, are contraband and may be rejected by the facility; 4) instructions about “how to obtain writing implements, paper, and envelopes”; and 5) “the procedure for purchasing postage (if any), and the rules for providing indigent and certain other detainees free postage.”¹²⁶ Without providing information regarding the foregoing matters, LPTF fails to meet the notification requirements of this section the Standards.

The facility opens and searches all non-attorney mail before delivering it to inmates.¹²⁷ Attorney mail is only opened in front of the detainee.¹²⁸ One detainee indicated that the timing for delivery of mail is a problem. For example, he stated that he had once received a letter from his attorney postmarked on the 13th of the month, two weeks later on the 27th of the month.¹²⁹ Another stated that mail delays can cause detainees to miss important court deadlines.¹³⁰

¹²⁰ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B, E, & F.

¹²¹ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.

¹²² Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & F.

¹²³ Detention Operations Manual, Detainee Services, Standard 3, Section III.I.

¹²⁴ Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

¹²⁵ Inmate Orientation pamphlet, “Correspondence.”

¹²⁶ Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

¹²⁷ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

¹²⁸ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

¹²⁹ Notes of delegation member (b)(6) in conversation with anonymous detainee.

¹³⁰ Notes of delegation member (b)(6) on conversation with anonymous detainee.

B. Detainee Handbook

The Standards require that every Officer in Charge develop a site-specific detainee handbook to serve as an overview of detention policies, rules, and procedures.¹³¹ Every detainee should receive a copy of the handbook upon admission to the facility.¹³² The handbook will be written in English and translated into Spanish and other prevalent languages as appropriate.¹³³ The Officer in Charge will provide a copy of the handbook to every staff member who has contact with detainees.¹³⁴

LPTF does not meet this section of the Standards; the Inmate Orientation pamphlet is written only in English, may not be distributed to all detainees, and lacks a great deal of important information required for ICE detainees. When the delegation requested a copy of the detainee handbook, we were provided with the fold-out pamphlet “Lerdo Pre-Trial Facility Inmate Orientation,” attached hereto. The pamphlet is written only in English and contains generalized information about the facility. Two detainees did not recall receiving any orientation information when arriving at the facility.¹³⁵ As detailed elsewhere in this report, the Inmate Orientation pamphlet does not include required, important information for ICE detainees regarding Correspondence, Detainee Classification, Detainee Grievance Procedures, and Staff-Detainee Communication.

C. Recreation

The Standards require that all detainees have access to recreational programs and activities, under conditions of security and safety.¹³⁶ Detainees should be housed in facilities with outdoor recreation.¹³⁷ If a facility only provides indoor recreation, detainees must have access for at least one hour per day, including exposure to natural light.¹³⁸ Detainees should have access to “fixed and movable equipment,” including opportunities for cardiovascular exercise, and games and television in dayrooms.¹³⁹

LPTF does not appear to fully meet this section of the Standards; detainees do not appear to have adequate opportunity for cardiovascular exercise, due in part to the location of the facility. According to the Inmate Orientation pamphlet, inmates who are “not under disciplinary isolation and who do not pose a security risk to the facility . . . will be allowed a minimum of three hours of outdoor exercise and recreation each week”¹⁴⁰ The LPTF is uniquely situated in that it is located in the desert where temperatures in the summer can reach

¹³¹ Detention Operations Manual, Detainee Services, Standard 6, Section I.

¹³² Detention Operations Manual, Detainee Services, Standard 6, Section I.

¹³³ Detention Operations Manual, Detainee Services, Standard 6, Section III.E.

¹³⁴ Detention Operations Manual, Detainee Services, Standard 6, Section III.H.

¹³⁵ Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c.

¹³⁶ Detention Operations Manual, Detainee Services, Standard 13, Section I.

¹³⁷ Detention Operations Manual, Detainee Services, Standard 13, Section III.A, which also provides that “all new or renegotiated contracts and IGSA’s will stipulate that INS detainees have access to an outdoor recreation area.”

¹³⁸ Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

¹³⁹ Detention Operations Manual, Detainee Services, Standard 13, Section III.G.

¹⁴⁰ Kern County Sheriff’s Department Lerdo Pre-Trial Facility: Inmate Orientation pamphlet.

100 degrees Fahrenheit or more. LPTF offers outdoor recreation; however, facility personnel acknowledged that detainees do not typically go outdoors because the temperature is too hot.¹⁴¹ One detainee explained that the heat was particularly problematic because detainees are only given one outfit per week and if they sweat in it, they will have to wear a sweaty, dirty outfit for the rest of the week.¹⁴² This problem is exacerbated by the fact that there is no shade and no seating in the outdoor area.¹⁴³ There are two basketball nets, but no other form of fixed equipment.¹⁴⁴

The only indoor recreation room shown to the delegation is the dayroom located in the center of the H Pod.¹⁴⁵ Dayrooms are common rooms for the inmates where they are able to socialize, watch television, and play board games.¹⁴⁶ The pod shown to the delegation provides detainees with access to natural sunlight either in his individual cell or in his dayroom.¹⁴⁷ However, the day room does not provide equipment for muscular or cardiovascular exercise.

D. Access to Medical Care

The Standards require that all detainees have access to medical services that promote detainee health and general well-being.¹⁴⁸ Each facility is required to have regularly scheduled times, known as sick call, when medical personnel are available to see detainees who have requested medical services.¹⁴⁹ For a facility of over 200 detainees, a minimum of five days per week is suggested.¹⁵⁰ Facilities must also have procedures in place to provide emergency medical care for detainees who require it.¹⁵¹ 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.¹⁵² 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.¹⁵³

LPTF appears to meet this section of the Standards. Medicines are distributed to inmates four times a day.¹⁵⁴ There are two normal medicine passes and two special medicine passes.¹⁵⁵ There is a doctor on site in the infirmary five days a week.¹⁵⁶ There is also a full-time

¹⁴¹ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

¹⁴² Notes on delegation member (b)(6), on conversation with anonymous

¹⁴³ Observation of delegation member (b)(6)

¹⁴⁴ Observation of delegation member (b)(6)

¹⁴⁵ Observations of delegation (b)(6)

¹⁴⁶ Notes of delegation member (b)(6), on conversation with Senior Deputy (b)(6), (b)(7)c

¹⁴⁷ Observation of delegation member (b)(6)

¹⁴⁸ Detention Operations Manual, Health Services, Standard 2, Section I.

¹⁴⁹ Detention Operations Manual, Health Services, Standard 2, Section III.F.

¹⁵⁰ Detention Operations Manual, Health Services, Standard 2, Section I.

¹⁵¹ Detention Operations Manual, Health Services, Standard III.A, D, and G.

¹⁵² Detention Operations Manual, Health Services, Standard 2, Section III.H.

¹⁵³ Detention Operations Manual, Health Services, Standard 2, Section III.J.

¹⁵⁴ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

¹⁵⁵ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

¹⁵⁶ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c

mental health staff available.¹⁵⁷ When a detainee indicates that he or she needs medical care, they fill out a request form and hand it to one of the nurses when they come around to distribute medicine.¹⁵⁸ Patients who are HIV positive are mixed in with the general population and have access to appropriate medication.¹⁵⁹

E. 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.¹⁶⁰ 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.¹⁶¹

It is unclear if the LPTF meets this section of the Standards. It is unclear if detainees receive the initial dental screening as suggested under the Standards. If dental care is needed, the LPTF has a dentist available on site twice a week.¹⁶² At least one detainee stated that he was denied dental care when he complained of a tooth ache and was told that “the county would not pay for that.”¹⁶³

F. Detainee Classification System

The Standards require that detention facilities use a classification system and physically separate detainees in different categories.¹⁶⁴ Detainees must be assigned to the least restrictive housing unit consistent with facility safety and security.¹⁶⁵ A detainee’s classification is to be determined on “objective” criteria, including criminal offenses, escape attempts, institutional disciplinary history, violent incidents, etc.¹⁶⁶ Opinions, unconfirmed and unverified information, and physical characteristics and appearance are not to be taken into account.¹⁶⁷ Classification is required in order to separate detainees with no or minimal criminal records from inmates with serious criminal records.¹⁶⁸ Detainees with a history of assaultive or combative behavior are not to be housed with non-assaultive detainees.¹⁶⁹

All facility classification systems shall allow classification levels to be re-determined and include procedures by which new arrivals can appeal their classification levels.¹⁷⁰ Finally, the

¹⁵⁷ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c .
¹⁵⁸ Notes of delegation member (b)(6) in conversation with Senior Deputy (b)(6), (b)(7)c .
¹⁵⁹ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c .
¹⁶⁰ Detention Operations Manual, Health Services, Standard 2, Section III.E.
¹⁶¹ Detention Operations Manual, Health Services, Standard 2, Section III.E.
¹⁶² Notes of delegation member (b)(6) , on conversation with Senior Deputy (b)(6), (b)(7)c .
¹⁶³ Notes of delegation member (b)(6) , on conversation with anonymous deta
¹⁶⁴ Detention Operations Manual, Health Services, Standard 4, Section I.
¹⁶⁵ Detention Operations Manual, Detainee Services, Standard 4, Section III.F.
¹⁶⁶ Detention Operations Manual, Detainee Services, Standard 4, Section III.D.
¹⁶⁷ Detention Operations Manual, Detainee Services, Standard 4, Section III.D.
¹⁶⁸ Detention Operations Manual, Detainee Services, Standard 4, Sections III.A & E.
¹⁶⁹ Detention Operations Manual, Detainee Services, Standard 4, Section III.F.
¹⁷⁰ Detention Operations Manual, Detainee Services, Standard 4, Sections III.G & H.

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.¹⁷¹

LPTF does not fully meet this section of the Standards; the delegation did not receive any information showing that detainees are given any information about the procedure for classification or their ability to appeal their classification. All detainees and inmates are classified when they first arrive at the facility.¹⁷² The Inmate Orientation pamphlet states that inmates must “wear their wristbands at all times” but does not explain the classification system or appeal procedures.¹⁷³

Senior Deputy (b)(6), (b)(7)c explained that LPTF divides inmates and detainees into different categories: white, yellow, red, orange, and blue.¹⁷⁴ White wristbands are issued to general population inmates; over half the inmates are in this category.¹⁷⁵ Yellow wristbands are issued to high profile inmates, such as certain gang members or individuals spotlighted in the media; yellows do not mix with other groups.¹⁷⁶ Red wristbands are issued to inmates who constitute a security risk; red-classified inmates are generally the ones who have tried to escape.¹⁷⁷ They are able to mix with white wristband inmates.¹⁷⁸ Orange bands are issued to inmates who have committed staff assaults and are unable to mix with other types of inmates.¹⁷⁹ Inmates in protective custody are given blue wristbands; they can include sex crime offenders, “snitches,” transgender or alternative lifestyle inmates, and any inmates who want to be separated because of fear of other inmates.¹⁸⁰ Blue wristband inmates cannot mix with other types of inmates.¹⁸¹

While LPTF personnel stated that federal detainee pods, like H Pod contain only federal detainees, at least one detainee stated that fights had broken out due to the mingling of federal detainees with county inmates.¹⁸²

G. Detainee Grievance Procedures

The Standards require that every facility develop and implement standard procedures for handling detainee grievances and encourage that the facility initially seek to resolve grievances informally before having to engage in a more formalized procedure.¹⁸³ The Standards also

¹⁷¹ Detention Operations Manual, Detainee Services, Standard 4, Section III.I.
¹⁷² Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁷³ Inmate Orientation pamphlet
¹⁷⁴ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁷⁵ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁷⁶ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁷⁷ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁷⁸ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁷⁹ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁸⁰ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁸¹ Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c
¹⁸² Notes of delegation member (b)(6) on conversation with Senior Deputy (b)(6), (b)(7)c with anonymous detainee.
¹⁸³ Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.A.

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.”¹⁸⁴ All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.¹⁸⁵ The detainee handbook must provide notice of several things, including the procedures for contacting ICE to appeal a decision, and the policy prohibiting staff from harassing, punishing, or otherwise retaliating against a detainee for filing a grievance.¹⁸⁶

LPTF substantially meets this section of the Standards, but some concerns remain including providing assurances that there will be no retaliation for filing a grievance, and the Inmate Orientation pamphlet lacks important information. The Inmate Orientation pamphlet states: “Staff will attempt to resolve verbal inmate complaints at the lowest possible level. Any inmate may submit a written grievance relating to any condition of confinement. All written grievances will be acted upon. ... All written grievances will be responded to within 7 days, if possible. Inmates may submit a written appeal regarding the outcome of the grievance to the level of authority one step above the officer resolving the grievance....”¹⁸⁷ There is no mention in the Inmate Orientation pamphlet about a grievance committee, or opportunities to contact ICE to appeal the decision, or the policy prohibiting staff from retaliating against detainees for filing a grievance.

One detainee stated that some grievances were not handled appropriately.¹⁸⁸ For example, he told us that a non-violent detainee who was at the facility for not having the proper paperwork was mixed in with violent detainees. After he was beaten by a gang inside, the non-violent detainee requested to be moved and was “thrown into the hole.” The same detainee told the delegation that he would not file a grievance as doing so would result in being put in the “hole.”¹⁸⁹ Another detainee stated that denial of medication had been used as retaliation for filing a grievance.¹⁹⁰

H. Staff-Detainee Communication

The Standards require that procedures be in place “to allow for formal and informal contact between key facility staff and ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame.”¹⁹¹ The Standards also require that “[t]he 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.”¹⁹²

¹⁸⁴ Detention Operations Manual, Detainee Services, Standard 5, Section I.

¹⁸⁵ Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.C & D.

¹⁸⁶ Detention Operations Manual, Detainee Services, Standard 5, Section III.G.

¹⁸⁷ Inmate Orientation pamphlet, “Inmate Grievance Procedures.”

¹⁸⁸ Notes of delegation member (b)(6) on conversation with anonymous detainee.

¹⁸⁹ Notes of delegation member (b)(6) on conversation with anonymous detainee.

¹⁹⁰ Notes of delegation member (b)(6) on conversation with anonymous detainee.

¹⁹¹ Detention Operations Manual, Detainee Services, Standard 15, Section I.

¹⁹² Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

LPTF does not meet this section of the Standards; the Inmate Orientation pamphlet contains no information specifically directed toward ICE detainees, including information about communicating with ICE staff.¹⁹³

I. 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.¹⁹⁴ 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. Opportunities will be constrained only by concerns about safety, security, the orderly operation of the facility, or extraordinary costs associated with a specific practice.”¹⁹⁵ Moreover, a facility’s staff shall make “all reasonable efforts to accommodate” special food services required by a detainee’s particular religion.¹⁹⁶ Detainees in confinement must also be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility.¹⁹⁷

It is unclear whether LPTF meets this section of the Standards; facility staff stated they make religious accommodations, but a detainee indicated he has been unable to practice his religion. It is unclear whether LPTF is providing “reasonable and equitable opportunities to participate in the practices of their respective faiths.” The Inmate Orientation pamphlet states that “headgear will not be allowed unless specifically authorized by staff.” It is unknown if staff ever authorizes headgear. LPTF told the delegation that religious headgear is not permitted and that they have had problems with some inmates trying to fashion such headgear by tearing their pants or sheets.¹⁹⁸ Additionally, prayer rugs are not permitted in the cells.¹⁹⁹ There is a non-denominational church service held on Sundays.²⁰⁰ LPTF personnel indicated that other religious leaders in the area could come by as needed.²⁰¹ Attendance of the church services is limited to inmates classified as general population or protective custody.²⁰²

One detainee stated that if prayer time conflicted with medication time, one must pick prayer or medication.²⁰³ He further indicated that if medication is missed due to prayer, the personnel will not then bring the medication when asked for. In terms of dietary accommodation, the same detainee stated that he did not ask for meals appropriate to Muslim dietary restrictions because he knew some who had asked and had been denied.²⁰⁴

¹⁹³ Inmate Orientation pamphlet.

¹⁹⁴ Detention Operations Manual, Detainee Services, Standard 14, Section I.

¹⁹⁵ Detention Operations Manual, Detainee Services, Standard 14, Section I.

¹⁹⁶ Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

¹⁹⁷ Detention Operations Manual, Detainee Services, Standard 14, Section III.O.

¹⁹⁸ Notes of delegation member (b)(6), on conversation with Senior Deputy (b)(6), (b)(7)c

¹⁹⁹ Notes of delegation member (b)(6), on conversation with Senior Deputy (b)(6), (b)(7)c

²⁰⁰ Notes of delegation member (b)(6), on conversation with Senior Deputy (b)(6), (b)(7)c

²⁰¹ Notes of delegation member (b)(6), on conversation with Super (b)(6), (b)(7)c

²⁰² Notes of delegation member (b)(6), on conversation with Officer (b)(6), (b)(7)c

²⁰³ Notes of delegation member (b)(6), on conversation with anonymous detainee.

²⁰⁴ Notes of delegation member (b)(6), on conversation with anonymous detainee.

J. Detainee Transfer

When transferring a detainee, the Standards require ICE to take into consideration whether a detainee is represented before the immigration court, and the location of the attorney and the court.²⁰⁵ The Standards require ICE to notify a detainee’s legal representative of record that the detainee is being transferred.²⁰⁶ Indigent detainees will be permitted to make a single domestic telephone call at government expense upon arrival at their final destination; non-indigent detainees will be permitted to make telephone calls at their own expense.²⁰⁷ Records including the detainee’s Alien File (“A-file”) and transfer summary must accompany the detainee.²⁰⁸ Prior to transfer, medical personnel must provide the transporting officers with instructions and any applicable medications for the detainee’s care; medications must be turned over to an officer at the receiving field office.²⁰⁹ A detainee’s legal materials, cash, and small valuables shall always accompany the detainee to the receiving facility; larger items may be shipped.²¹⁰

LPTF appears to meet this section of the Standards. LPTF personnel indicated that detainees’ attorneys are notified when their clients are transferred.²¹¹ When detainees are transferred, they are transferred with abbreviated medical histories including all of their medical information on file.²¹² With regard to the single call allowed upon arrival at LPTF, the detainees generally appear to be limited to making collect or calling card calls.²¹³ One detainee stated that he had not been given a free phone call when he arrived at the facility, and had to wait until the first commissary visit to buy a phone card to finally make his call.²¹⁴ However, another detainee who had been transferred from Yuba stated that he had been given one call upon his arrival.²¹⁵

V. CONCLUSION

The Lerdo Pre-Trial Facility meets many sections of the ICE Detention Standards but fails to meet a number of sections.

LPTF should ensure that all detainees may have family visitors on weekends, on a rotating basis if necessary to accommodate all detainees.

LPTF should not record or monitor, in any matter whatsoever, legal phone calls (absent a court order), and if regular phone calls are monitored, LPTF should provide detainees with the procedure for obtaining an unmonitored call for legal purposes. Further, a posting near detainee telephones should provide a list of free pre-programmed numbers to all consulates, as well as

²⁰⁵ Detention Operations Manual, Detainee Security and Control, Standard 4, Section I.

²⁰⁶ Detention Operations Manual, Detainee Security and Control, Standard 4, Section III.A.

²⁰⁷ Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.G.

²⁰⁸ Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.D.1 and III.D.6.

²⁰⁹ Detention Operations Manual, Detainee Security and Control, Standard 4, Section III.D.D [sic].

²¹⁰ Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.E.

²¹¹ Notes of delegation member [REDACTED] on conversation with Supervisor [REDACTED].

²¹² Notes of delegation member [REDACTED] (b)(6) on conversation with Supervisor [REDACTED] (b)(6), (b)(7)c.

²¹³ Notes of delegation member [REDACTED] on conversation with Supervisor [REDACTED].

²¹⁴ Notes of delegation member [REDACTED] (b)(6), on conversation with anonymous detainee.

²¹⁵ Notes of delegation member [REDACTED] (b)(6) on conversation with detainee [REDACTED] (b)(6), (b)(7)c.

relevant courts, immigration offices, and all free legal service providers on the ICE-approved list. While these numbers were posted at the time of our visit, all detainees interviewed stated that they had been posted immediately prior to our visit. Reflecting the needs of the multinational immigrant jail population, instructions regarding the use of the phone system need to be in different languages.

To support the detainees' access to legal materials and legal representation, LPTF should ensure adequate library and computer access. In addition, LPTF should provide access to all of the legal materials listed the Standards in their law library.

LPTF should provide some sort of shade, seating, and recreational equipment to promote outdoor recreation. Giving detainees the option to sit outside on the ground in 100° heat without any shade is the functional equivalent of denying outdoor recreation.

LPTF and ICE should create a detainee handbook or include appropriate information in its orientation pamphlet relating to rights and responsibilities of ICE detainees.

Facility Name: **LERDO PRE-TRIAL FACILITY, KERN COUNTY, CA**

Date of Tour: **August 1, 2006**

Tour Participants: Latham & Watkins LLP attorneys and summer associates [REDACTED] and [REDACTED]

**Standards are Detainee Services Standards unless otherwise indicated. Standards excerpts are typed verbatim. Issues are generally listed in their order from the Report.*

Report comments in bold are priority issues for ICE-ABA discussion.

	ICE Standard*	Delegation Report	Source	ICE Response
1.	Standard 17, Visitation <ul style="list-style-type: none"> I. To maintain detainee morale and family relationships, [ICE] encourages visits from family and friends. 	<ul style="list-style-type: none"> Some detainees, depending on their names, may not receive visitors on weekends. (p.4 ¶3) 	Inmate Orientation pamphlet	
2.	Standard 16, Telephone Access <ul style="list-style-type: none"> III.E. The facility shall not require indigent detainees to pay for [legal, court-related, consular, emergency calls] if they are local calls, nor for non-local calls if there is a compelling need. The facility shall enable all detainees to make calls to the INS-provided list of free legal service providers and consulates 	<ul style="list-style-type: none"> LPTF does not allow free calls, aside from pre-programmed calls. (p.6 ¶2) Detainees said LPTF did not provide the list of free legal service providers and consulates until the day before the delegation’s visit, and that they had never used those materials before. (p.6 ¶2) 	Senior Deputy [REDACTED] detainees	
3.	Standard 16, Telephone Access <ul style="list-style-type: none"> III.I. The facility shall take and deliver telephone messages to detainees as promptly as possible. 	<ul style="list-style-type: none"> LPTF does not accept telephone messages. (p.7 ¶3) 	Senior Deputy [REDACTED]	
4.	Standard 16, Telephone Access <ul style="list-style-type: none"> III.J. The facility shall ensure privacy for detainees’ telephone calls regarding legal matters. For this purpose, the facility shall provide a reasonable number of telephones on which detainees can make such calls without being overheard by officers, other staff or other detainees. Facility staff shall not electronically monitor detainee telephone calls on their legal matters, absent a court order. 	<ul style="list-style-type: none"> Detainees are unable to make private legal calls, as telephones are located in public dayrooms. Apparently there is a procedure to request a private phone if there is a family problem, but it is unclear whether detainees are aware of this option. (p.7 ¶1) 	Delegation observations; Senior Deputy [REDACTED]	
5.	Standard 1, Access to Legal Material <ul style="list-style-type: none"> III.B. Equipment. The law library shall provide an adequate number of ... computers ... to enable detainees to prepare documents for legal proceedings. 	<ul style="list-style-type: none"> The library only had one functioning computer at the time of the delegation’s visit; the second computer’s hard drive had been missing for 2 months. (p.9 ¶5) 	Delegation observations; anonymous detainee	
6.	Standard 1, Access to Legal Material <ul style="list-style-type: none"> III.C. The law library shall contain the materials listed in Attachment A. 	<ul style="list-style-type: none"> Many of the materials listed in Attachment A were not available in the library [at least in hard copy]. (p.9 ¶3) 	Delegation observations	

7.	<p>Standard 9, Group Presentations on Legal Rights</p> <ul style="list-style-type: none"> III.I. Videotaped presentations. The facility shall play [ICE]-approved videotaped presentations on legal rights, at the request of outside organizations. ... The facility shall provide regular opportunities for detainees in the general population to view the videotape. 	<ul style="list-style-type: none"> LPTF staff stated that a “Know Your Rights” video is shown on televisions every morning during “chow time.” However, several detainees stated that they had never seen the Know Your Rights video shown in their pod, or at all. (p.11 ¶3) 	<p>Senior Deputy [REDACTED] (b) (6) [REDACTED] (b) (6) and anonymous detainee</p>	
8.	<p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> I. All facilities will ensure that detainees send and receive correspondence in a timely manner. III.C. Incoming correspondence shall be distributed to detainees within 24 hours of receipt by the facility 	<ul style="list-style-type: none"> Two detainees reported serious mail delays; one said mail delays can cause detainees to miss important court deadlines. (p.12 ¶3) 	<p>Anonymous detainees</p>	
9.	<p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> III.B. The facility shall notify detainees of its policy in correspondence and other mail through the detainee handbook or equivalent ... [and] shall specify: 4. That [incoming] special correspondence may only be opened in the detainee’s presence, and may be inspected for contraband, but not read; ... 5. The definition of special correspondence, including instructions on the proper labeling for special correspondence, without which it will not be treated as special mail. ... 7. A description of mail which may be rejected by the facility 8. How to obtain writing implements, paper, and envelopes; and 9. The procedure for purchasing postage (if any), and the rules for providing indigent and certain other detainees free postage 	<ul style="list-style-type: none"> The Inmate Orientation pamphlet does not include any of this required information, including the definition of special correspondence and how it should be labeled. (p.12 ¶2) 	<p>Inmate Orientation pamphlet</p>	

10.	<p>Standard 6, Detainee Handbook</p> <ul style="list-style-type: none"> 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. The handbook will also describe the services, programs, and opportunities available III.E. The handbook will be written in English and translated into Spanish and, if appropriate, into the next most prevalent language(s) among the facility’s detainees. <p>Standard 5, Detainee Grievance Procedures</p> <ul style="list-style-type: none"> III.G. Detainee Handbook. ... The grievance section of the detainee handbook will provide notice of the following: ... 2. the procedures for filing a grievance and appeal ... <p>Standard 15, Staff-Detainee Communication</p> <ul style="list-style-type: none"> 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 	<ul style="list-style-type: none"> The Inmate Orientation pamphlet lacks a great deal of important information required to be included for ICE detainees, including information on correspondence, classification, grievance procedures, and ICE staff-detainee communication. (p.13 ¶2) The Inmate Orientation pamphlet is only available in English. (p.13 ¶2) Two detainees did not recall receiving any orientation information upon arrival at the facility. (p.13 ¶2) 	<p>Inmate Orientation pamphlet</p> <p>Detainees</p> <p>(b) (6)</p>	
11.	<p>Standard 4, Detainee Classification System</p> <ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> The Inmate Orientation pamphlet does not explain classification procedures or detainees’ ability to appeal their classification. (p.16 ¶2) 	<p>Inmate Orientation pamphlet</p>	
12.	<p>Standard 5, Detainee Grievance Procedures</p> <ul style="list-style-type: none"> III.D. Retaliation. Staff will not harass, discipline, punish, or otherwise retaliate against a detainee lodging a complaint. 	<ul style="list-style-type: none"> Two detainees expressed concern about retaliation against detainees who complain. One said that a detainee was “thrown into the hole” when he requested to be moved after he was beaten by a gang. Another detainee said denial of medication had been used as retaliation for filing a grievance. (p.17 ¶3) 	<p>Anonymous detainees</p>	
13.	<p>Standard 5, Detainee Grievance Procedures</p> <ul style="list-style-type: none"> III.G. Detainee Handbook. ... The grievance section of the detainee handbook will provide notice of the following: ... 4. The procedures for contacting the [ICE] to appeal the decision of the OIC of a CDF or an IGSA facility. 5. The policy prohibiting staff from harassing, disciplining, punishing or otherwise retaliating against any detainee for filing a grievance. 	<ul style="list-style-type: none"> The Inmate Orientation pamphlet does not include information regarding procedures for contacting ICE to appeal a decision, or a policy prohibiting retaliation for filing a grievance. (p.17 ¶2) 	<p>Inmate Orientation pamphlet</p>	

14.	Standard 15, Staff-Detainee Communication. <ul style="list-style-type: none"> ▪ III.B.3. 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. 	<ul style="list-style-type: none"> ▪ The Inmate Orientation pamphlet does not include information about ICE staff-detainee communication. (p.18 ¶1) 	Inmate Orientation pamphlet	
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