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**MEMORANDUM**  
September 6, 2007

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

**From:** American Bar Association Delegation to the Keogh-Dwyer Correctional Facility<sup>1</sup>

**Copies to:** [REDACTED] b6 ABA Commission on Immigration

**Subject:** Report on Observational Tour of the Keogh-Dwyer Correctional Facility, Newton, New Jersey (Sussex County)

This memorandum summarizes and evaluates information gathered at the Keogh-Dwyer Correctional Facility ("KDCF" or "the facility") in Newton, New Jersey (Sussex County), during the delegation's July 25, 2007 visit. The information was gathered via observation of the facility, interviews with four detainees, and discussions with KDCF 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 (the "Standards") to ensure the "safe, secure, and humane treatment" of immigration detainees. The thirty-nine 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 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 Office or Officer-in-Charge has discretion to

<sup>1</sup> The delegation was composed of attorneys and summer associates from the New York office of Latham & Watkins LLP, including [REDACTED] b6 and [REDACTED] b6

<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").

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, July 25, 2007

On Wednesday, July 25, 2007, the members of our delegation met with several members of KDCF's staff, including Undersheriff [redacted] social worker [redacted] one of the facility's nurses, and several officers in the housing unit. Three representatives from the ICE office in New York, NY also joined our delegation on a tour of the facilities and participated in post-tour follow-up discussions: ICE Supervisory Officer [redacted] and ICE Agents [redacted] and [redacted]. 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 KDCF and ICE employees, as well as observations of the facility and interviews with five immigration detainees. In many instances, the detainees' reports were compatible with statements made by facility personnel and our observations. In such cases, the delegation was able to determine more accurately whether KDCF 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 reconcile the conflicting reports, the delegation was unable to determine conclusively whether the Standards are being met.

B. General Information About the KDCF Detention Facility

The KDCF Detention Facility houses federal immigration detainees according to an intergovernmental service agreement ("IGSA") with ICE. According to KDCF personnel, the Facility has the capacity to hold about 180 individuals. KDCF has a current population of approximately 31 immigration detainees. Approximately 12 detainees had arrived at the jail within the 24 hours preceding our visit.<sup>3</sup> Immigration detainees live on a separate floor from the general jail population and would only interact with the general population if they were to cross paths during movement within the jail.<sup>4</sup> KDCF houses only males.<sup>5</sup> Agent [redacted] pointed out that women could be accepted on a short-term, case-by-case basis, but that this is extremely unlikely.<sup>6</sup> In such an event, a detained woman would likely be placed in a separate location in the jail.<sup>7</sup> Agent [redacted] also pointed out that all or almost all detainees at KDCF are awaiting deportation or disposition of their cases based on their criminal records.<sup>8</sup> Officer [redacted] told the

<sup>3</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]  
<sup>4</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]  
<sup>5</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]  
<sup>6</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]  
<sup>7</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]  
<sup>8</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]

delegation that the facility housed immigration detainees from many different countries, including Chad, Peru, Jordan, Democratic Republic of Congo, and Mexico.<sup>9</sup>

### III. LEGAL ACCESS STANDARDS

#### A. Visitation

##### 1. Visitation by Attorneys

The Standards require that facilities permit legal visitation seven days per week.<sup>10</sup> Attorneys should have access to their clients eight hours per day during the week and four hours per day during the weekend.<sup>11</sup> The visits must be private, and should not be interrupted for head counts.<sup>12</sup> Facilities should establish a procedure by which attorneys may call to determine whether a detainee is housed in a particular facility.<sup>13</sup> Detention centers should permit visits from attorneys, other legal representatives, legal assistants, and interpreters.<sup>14</sup>

**KDCF meets this section of the Standards.** However, visits between attorneys and their clients are stopped for changes in security personnel at meal times.<sup>15</sup> According to Undersheriff [REDACTED] b6,b7c this interruption is usually about ten to fifteen minutes.<sup>16</sup> Attorneys may visit the detainees seven days per week, and are also offered the option of telephone conferences with their clients.<sup>17</sup> Law students, interpreters, and other legal assistants may meet with detainees as long as KDCF has advance knowledge of their visit.<sup>18</sup> As required by the Standards, the staff at KDCF requires that all legal service providers and assistants show proper identification upon arrival.<sup>19</sup> If an attorney is not present at a specific meeting the staff requires that a letter from an attorney with his Bar ID be presented by the paralegal or other assistant upon arrival.<sup>20</sup>

KDCF has three private visiting rooms available for contact visits between attorneys and their clients.<sup>21</sup> Additionally, should a non-contact meeting be desired the facility has non-contact

<sup>9</sup> Notes of delegation member [REDACTED] b6 on conversation with Officer [REDACTED] b6,b7c during the tour while the delegation was in the housing area.

<sup>10</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

<sup>11</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

<sup>12</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.9.

<sup>13</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.6.

<sup>14</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.3.

<sup>15</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED] b6,b7c

<sup>16</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED] b6,b7c at the end of the tour while the delegation was in the visitation room.

<sup>17</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>18</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>19</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED] b6,b7c

<sup>20</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>21</sup> Observations of delegation member [REDACTED] b6

telephone units that an attorney and client can use to speak.<sup>22</sup> These non-contact telephone units contain Plexiglas dividers that still allow the attorney and client to see each other.<sup>23</sup>

Attorneys may call KDCF to determine whether their client is being housed at the facility.<sup>24</sup> KDCF has the capability to search for detainees by name, although staff are not permitted to disclose information beyond whether the detainee is at the facility.<sup>25</sup>

## 2. Visitation by Family and Friends

To maintain detainee morale and family relationships, the Standards encourage visits from family and friends.<sup>26</sup> The Standards require that facilities establish written visitation hours and procedures, post them where detainees can see them, and make them available to the public.<sup>27</sup> This includes procedures for handling incoming money for detainees.<sup>28</sup> The visiting area is to be "appropriately furnished and arranged, and as comfortable and pleasant as practicable."<sup>29</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>30</sup> Visits should last at least 30 minutes, and longer when possible.<sup>31</sup>

**KDCF appears to meet this section of the Standards.** However, visitors may be limited to visiting on either a Saturday or a Sunday, depending on the volume of visitors.<sup>32</sup> The visitation schedule is clearly posted at the entrance to the facility.<sup>33</sup> Visiting hours are Saturday and Sunday from 8:00 a.m. to 11:00 a.m. and 12:30 p.m. to 3:30 p.m.<sup>34</sup>

The Standards require that facilities have written procedures regarding incoming property and money for detainees.<sup>35</sup> KDCF allows for the transfer of allowed personal items or paperwork whenever a visitor informs the Officer in Charge that he wishes to give something to the

<sup>22</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>23</sup> Observations of delegation member [REDACTED]

<sup>24</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>25</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>26</sup> Detention Operations Manual, Detainee Services, Standard 17, Section I.

<sup>27</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.A & B.

<sup>28</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.D.

<sup>29</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.G.

<sup>30</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>31</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>32</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>33</sup> Observations of delegation member [REDACTED]

<sup>34</sup> KDCF Inmate Visiting Schedule; KDCF Informational Pamphlet.

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

detainee.<sup>36</sup> Undersheriff [REDACTED] b6,b7c explained that detainees are allowed to keep religious items and a limited number of personal items, such as personal pictures.<sup>37</sup> However, one detainee, who is a Muslim, stated that he was not allowed to keep a prayer rug in his room (this point will be addressed later in this report).<sup>38</sup> This detainee (hereinafter "Detainee X" to respect his request for anonymity) complained about the procedure for the return of personal property.<sup>39</sup> Detainee X stated that any money returned to a detainee being deported is returned as a money order, which could be extremely difficult for a detainee being deported to cash.<sup>40</sup>

Although the Standards do not cap the number of visitors, KDCF requires each detainee to submit a list of individuals in order to receive them as visitors.<sup>41</sup> The detainees may make periodic changes to their list.<sup>42</sup> Upon the visitor's arrival, the officer on duty verifies that the visitor is on the approved list.<sup>43</sup> Minors may be included on this list, and may visit if accompanied by an adult.<sup>44</sup> Detainee X believed that there is a numeric limit on the number of visitors allowed; he was allowed to make a list of 10 visitors, but when 10 visitors came to see him, only 2 were allowed to visit and the rest were denied.<sup>45</sup> Detainee X also pointed out that while the system is consistently applied, no accommodations are made for unexpected changes in visitors.<sup>46</sup> If a visitor comes who is not on a previously submitted list, that visitor is not allowed a visit.<sup>47</sup> Detainee X pointed out that it is also very difficult to coordinate family visits to a geographically isolated jail among poor immigrant families like his own, and the lack of flexibility regarding visitor lists had created hardships.<sup>48</sup>

## 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.<sup>49</sup> In order to meet this requirement,

<sup>36</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>37</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED] b6,b7c

<sup>38</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>39</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>40</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>41</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>42</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED]

<sup>43</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED] b6,b7c

<sup>44</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>45</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>46</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>47</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>48</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>49</sup> Detention Operations Manual, Detainee Services, Standard 16, Sections I & III.A.

facilities must provide at least one telephone for every twenty-five detainees.<sup>50</sup> 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.<sup>51</sup>

**KDCF meets this section of the Standards.** The detainee housing unit has its own set of two phones, so the number was approximately one phone per sixteen detainees.<sup>52</sup> The telephones are accessible during open dayroom periods, which are from 7:10 a.m. to 10:45 a.m., 11:15 a.m. to 2:45 p.m., 3:15 p.m. to 5:45 p.m., and 7:15 p.m. to 10:45 p.m.<sup>53</sup> Detainee X pointed out that if a detainee is "in line" for his turn to use the telephone when a break time or meal time begins, the policy is that the detainee loses his place in line, and as such getting a turn on the phone can be extremely frustrating.<sup>54</sup>

Telephone usage rules and instructions are handwritten, in both English and Spanish, and posted next to the phones.<sup>55</sup> According to Agent [REDACTED] b6,b7c those rules were written and posted by the detainees.<sup>56</sup> Also, the phone numbers of local consulates are posted by the two phones and were last updated July 1, 2007.<sup>57</sup>

## 2. Direct Calls and Free Calls

The Standards allow facilities to generally restrict calls to collect calls;<sup>58</sup> 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.<sup>59</sup> 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.<sup>60</sup> In addition, the facility "shall enable all detainees to make calls to the posted list of free legal service providers and consulates at no charge to the detainee or the receiving party."<sup>61</sup>

**It is unclear whether KDCF meets this section of the Standards; KDCF staff permit detainees to make free and direct calls, but detainees may not be sufficiently informed that**

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<sup>50</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.C.

<sup>51</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.B.

<sup>52</sup> Observations of delegation member [REDACTED] b6

<sup>53</sup> Observations of delegation member [REDACTED] on posting.

<sup>54</sup> Notes of delegation member [REDACTED] b6 on conversation with Detainee X.

<sup>55</sup> Observations of delegation member [REDACTED] b6

<sup>56</sup> Notes of delegation member [REDACTED] b6 in conversation with Agent [REDACTED] b6,b7c

<sup>57</sup> Observations of delegation member [REDACTED] b6

<sup>58</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>59</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>60</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>61</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

such phone call options are available.<sup>62</sup> KDCF permits collect and direct calls, and allows the detainees to purchase calling cards at ten dollars a piece, for sixty minutes of talk time, to make direct calls with.<sup>63</sup> The cards must be purchased through KDCF (from social worker [REDACTED] b6 [REDACTED] b6) and any other calling cards sent to detainees are returned to the sender.<sup>64</sup> Detainee X is unaware of how to obtain a calling card from KDCF because he has never been informed how to do so, but has received cards from other detainees to use.<sup>65</sup> Detainee X stated that the calling cards available from KDCF do not work, and that current detainees used cards they received from another detainee who has since left the facility.<sup>66</sup> In order to make free calls, detainees must place a request with social worker [REDACTED] b6 [REDACTED] who will then arrange for the call to be made.<sup>67</sup> One detainee reported that his friend had mailed him a telephone card that was returned to the sender, and the detainee did not understand why.<sup>68</sup> He came to the facility with no money, and he has no family to send him a certified check or money order, and therefore he has not been able to buy a phone card to make phone calls.<sup>69</sup> He asked his friend to send him a phone card but never received it because it was rejected by the jail without explanation.<sup>70</sup> If it was confiscated as contraband, it would have been helpful to communicate this to the detainee.

### 3. Telephone Access to Legal Representatives

The Standards provide that the facility shall not restrict the number of calls a detainee places to his or 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.<sup>71</sup> If time limits are necessary, they shall be no shorter than twenty minutes.<sup>72</sup> The Standards require that the facility ensure privacy for detainees' telephone calls regarding legal matters, and that calls shall not be electronically monitored absent a court order.<sup>73</sup>

**KDCF does not meet this section of the Standards; all telephone calls are limited to fifteen minutes,<sup>74</sup> detainees are not aware of how to make private calls, and calls may be monitored.** Detainees are unable to make private telephone calls because the phones are all

<sup>62</sup> Observations of delegation member [REDACTED] b6 [REDACTED]

<sup>63</sup> Notes of delegation member [REDACTED] on conversation with Agent [REDACTED] b6, b7c

<sup>64</sup> Notes of delegation member [REDACTED] b6 on conversation with Agent [REDACTED] b6, b7c

<sup>65</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>66</sup> Notes of delegation member [REDACTED] b6 on conversation with Detainee X.

<sup>67</sup> Notes of delegation member [REDACTED] b6 on conversation with social worker [REDACTED] b6

<sup>68</sup> Notes of delegation members [REDACTED] and [REDACTED] on conversation with detainee [REDACTED]

<sup>69</sup> Notes of delegation members [REDACTED] b6 and [REDACTED] b6 on conversation with detainee [REDACTED] b6, b7c

<sup>70</sup> Notes of delegation members [REDACTED] and [REDACTED] on conversation with detainee [REDACTED] b6, b7c

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

<sup>72</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

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

<sup>74</sup> KDCF Inmate Rules and Regulations, ¶ 12.

located in the dayrooms without privacy safeguards, such as partitions.<sup>75</sup> Detainee X also mentioned that when he has talked with his attorney there is always someone nearby such that he has no privacy.<sup>76</sup> Additionally, all of the phone conversations made on the two phones may be recorded and monitored.<sup>77</sup> If the conversation needs to be cut off for security reason the officers in the monitoring station adjacent to the housing unit have the ability to do so.<sup>78</sup> Whenever a detainee's call will be monitored or recorded, an automated voice system should disclose the fact to the detainee, in both English and Spanish.<sup>79</sup> The KDCF Inmate Rules and Regulations does state that telephone calls may be monitored.<sup>80</sup> However, Detainee X claims he has never heard any message informing him that phone calls are being monitored or recorded.<sup>81</sup> Nevertheless, he believes that they are being recorded.<sup>82</sup> Finally, Undersheriff [REDACTED] b6,b7c stated that calls are virtually never cut off at the fifteen-minute mark (although the detainees are informed that the staff may do so) because the inmates enforce the fifteen-minute rule among themselves.<sup>83</sup> However, Detainee X believed that calls are regularly, if not always, cut off at fifteen minutes.<sup>84</sup>

A detainee may have a private phone call with his attorney if he or the attorney makes a written request.<sup>85</sup> To provide for privacy, these phone calls can be made in the law library, which is adjacent to, but separate from, the dayroom.<sup>86</sup> However, Detainee X did not appear to have been informed about the possibility of requesting private phone calls.<sup>87</sup>

#### 4. Incoming Calls and Messages

The Standards require that facilities take and deliver messages from attorneys and emergency incoming telephone calls to detainees as promptly as possible.<sup>88</sup> If the facility receives an emergency telephone call for a detainee, the Standards suggest that the facility obtain the caller's

<sup>75</sup> Observations of delegation member [REDACTED] b6

<sup>76</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>77</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>78</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED] b6,b7c

<sup>79</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>80</sup> KDCF Inmate Rules and Regulations, ¶ 12.

<sup>81</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>82</sup> Notes of delegation member [REDACTED] b6 on conversation with Detainee X.

<sup>83</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED] b6,b7c

<sup>84</sup> Notes of delegation member [REDACTED] b6 on conversation with Detainee X.

<sup>85</sup> Notes of delegation member [REDACTED] on conversation with social worker [REDACTED]

<sup>86</sup> Notes of delegation member [REDACTED] b6 on conversation with social worker [REDACTED] b6

<sup>87</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

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



name and number and permit the relevant detainee to return the emergency call as soon as possible.<sup>89</sup>

**It is unclear whether KDCF meets this section of the Standards; information from facility staff differed from that provided by one detainee.** Facility staff stated that incoming phone calls and messages are accepted and delivered within a day of receipt, except on weekends when the social worker is off.<sup>90</sup> However, Detainee X says that it is impossible for outsiders to make incoming calls.<sup>91</sup> He is not aware of any number to give his family to call in the event of an emergency and worries that if something happens to his family he will not be able to find out.<sup>92</sup>

### 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."<sup>93</sup>

#### 1. Library Access and Notice to Detainees

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>94</sup> Each detainee shall be permitted to use the law library for a minimum of five hours per week.<sup>95</sup> The Standards require that the detainee handbook provide detainees with the rules and procedures governing access to legal materials and the procedure for requesting additional time in the law library.<sup>96</sup>

**KDCF does not fully meet this section of the Standards; the KDCF Inmate Rules and Regulations state that inmates are entitled to use the law library books, but does not provide rules and procedures for law library access or the procedures for requesting additional time. Some detainees appear to be unaware of the law library or how to access the law library.** KDCF permits all detainees to use the law library. The KDCF Inmate Rules and Regulations states that "[i]nmates of the KDCF are entitled to use the law library books," and "[l]aw library will be conducted according to the posted schedule."<sup>97</sup> The posted schedule indicates that the law library is open from 7:00-10:45 a.m., 11:15-2:45 p.m., 3:15-5:45 p.m., and

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

<sup>90</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with social worker [REDACTED] b6 and Agent [REDACTED] b6, b7c

<sup>91</sup> Notes of delegation member [REDACTED] b6 on conversation with Detainee X.

<sup>92</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>93</sup> Detention Operations Manual, Detainee Services, Standard 1, Section I.

<sup>94</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>95</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>96</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.Q.

<sup>97</sup> KDCF Inmate Rules and Regulations, p. 1.

7:15-10:45 p.m.<sup>98</sup> In addition, Officer [b6,b7c] said that detainees who wish to use the law library are permitted access at least five hours per week.<sup>99</sup>

However, there was some confusion among the interviewed detainees as to the rules for accessing the law library. The KDCF Rules and Regulations state that inmates are permitted to use the law library books, and that the library hours will be posted.<sup>100</sup> However, the KDCF Inmate Rules and Regulations do not specify the rules and procedures for library access or for requesting additional time in the library.<sup>101</sup> One detainee, who had arrived the day before the delegation interviewed him, reported that he had not been informed that there was a law library or how to request access.<sup>102</sup> Another detainee, who had been at the facility for seven weeks but who could not read English, also reported that he was not aware of the existence of a law library, and he stated that the interview with the delegation was the first time he learned that detainees could access a computer.<sup>103</sup> Detainee X, who was literate in English and had been at the facility for approximately six weeks, did not know the law library existed.<sup>104</sup> Another detainee interviewed by the delegation demonstrated confusion between the legal library and the recreational library,<sup>105</sup> and the delegation also observed that the two libraries could be easily conflated in detainees' minds without better notice by KDCF personnel regarding the distinction between the two libraries.<sup>106</sup>

The recreational library, located in the vicinity of the gym, contains a few legal volumes but does not provide detainees with up-to-date access to Lexis-Nexis or other materials such as can be found in the legal library.<sup>107</sup> The fact that the recreational library contains a few legal volumes on the shelves creates the possibility that detainees will mistakenly believe that all available legal materials are located in the recreational library. KDCF should provide better notification about the presence and purpose of the legal library, which is not as readily visible as the recreational library and is located in a corner outside the housing quarters.<sup>108</sup>

## 2. Library Conditions

<sup>98</sup> Observations of delegation member [b6]

<sup>99</sup> Notes of delegation member [b6] on comment made by Officer [b6,b7c]

<sup>100</sup> KDCF Inmate Rules and Regulations, p.1.

<sup>101</sup> KDCF Inmate Rules and Regulations, p.1.

<sup>102</sup> Notes of delegation member [b6] on conversation with detainee [b6,b7c]

<sup>103</sup> Notes of delegation member [b6] on conversation with detainee [b6,b7c]

<sup>104</sup> Notes of delegation member [b6] on conversation with Detainee X.

<sup>105</sup> Notes of delegation members [b6] and [b6] on conversation with detainee [b6,b7c]

<sup>106</sup> Observations of delegation members [b6] and [b6]

<sup>107</sup> Observations of delegation member [b6]

<sup>108</sup> Observations of delegation member [b6]

The Standards require that a facility provide a law library with sufficient space to facilitate detainees' legal research and writing.<sup>109</sup> 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."<sup>110</sup>

**KDCF meets this section of the Standards.** KDCF provides a law library adjacent to the immigration detainee living quarters.<sup>111</sup> The library is equipped with a single desk and chair and is well lit and also well-isolated from noise and foot traffic.<sup>112</sup> Although the library is small,<sup>113</sup> it is open for thirteen hours and fifteen minutes every day at scheduled times to accommodate the few detainees who request access.<sup>114</sup> Additionally, the library is located in an enclosed room that is free of distractions and noise.<sup>115</sup>

### 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*.<sup>116</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>117</sup> Damaged or stolen materials must be promptly replaced.<sup>118</sup>

**KDCF does not meet this section of the Standards; not all of the required materials are available.** KDCF provides its immigration detainees with up-to-date access to legal materials on computer, by means of Lexis-Nexis legal resource CDs that are uploaded to the computer on a regular basis.<sup>119</sup> However, many of the required legal materials are unavailable on Lexis-Nexis.<sup>120</sup> The computer in the law library does not have internet access to enable detainees to find these sources online.<sup>121</sup> While Lexis-Nexis provides access to numerous legal materials, most of the secondary resources listed as required by Attachment A to the chapter on *Access to*

<sup>109</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

<sup>110</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

<sup>111</sup> Observations of delegation member [REDACTED]

<sup>112</sup> Observations of delegation member [REDACTED]

<sup>113</sup> Observations of delegation member [REDACTED]

<sup>114</sup> Notes of delegation member [REDACTED] on conversation with Agent [REDACTED]

<sup>115</sup> Observations of delegation member [REDACTED]

<sup>116</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

<sup>117</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

<sup>118</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.F.

<sup>119</sup> Notes of delegation member [REDACTED] on conversation with Agent [REDACTED]

<sup>120</sup> Observations of delegation member [REDACTED]

<sup>121</sup> Notes of delegation member [REDACTED] on conversation with Agent [REDACTED]

*Legal Materials* are not available on Lexis-Nexis.<sup>122</sup> The Standards state that facilities shall provide: *Legal Research in a Nutshell*; *Directory of Nonprofit Agencies that Assist Persons in Immigration Matters*; *Legal Research & Writing*; *Rights of Prisoners*; and *Human Rights Watch-World Report*.<sup>123</sup> However, none of these sources is available on the computer with Lexis-Nexis or in hard copy.<sup>124</sup> One detainee reported that he believed the law library is too old.<sup>125</sup> The books that are available in hard copy were observed to be worn, obsolete, and disorganized on a cart, but the Lexis-Nexis database is updated every few months by Agent [b6,b7c] whenever Lexis-Nexis has an updated version available.<sup>126</sup> Agent [b6,b7c] reported that he or another ICE officer can show detainees how to use the law library database if they ask for assistance.<sup>127</sup>

#### 4. Library Equipment and Supplies

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>128</sup> Staff must inspect at least weekly to ensure equipment is in working order and to stock sufficient supplies.<sup>129</sup> In addition, indigent detainees must be provided free envelopes and stamps for legal mail.<sup>130</sup>

**KDCF appears to meet this section of the Standards.** KDCF has a computer and printer available in the law library, both of which functioned during a test conducted by the delegation.<sup>131</sup> Detainees are permitted to create and save legal documents on Microsoft Word, make printouts, and bring legal documents to their cells.<sup>132</sup> One detainee, who had been at the facility for ten days, confirmed that detainees are permitted to keep legal documents in their cells if they have them.<sup>133</sup> The KDCF Inmate Rules and Regulations states that indigent detainees will be furnished writing materials for up to three letters per week, but it does not specify whether non-indigent detainees receive writing materials for legal mail, nor does the KDCF

<sup>122</sup> Observations of delegation member [b6]

<sup>123</sup> Detention Operations Manual, Detainee Services, Standard 1, Attachment A.

<sup>124</sup> Observations of delegation member [b6]

<sup>125</sup> Notes of delegation member [b6] on conversation with Detainee X.

<sup>126</sup> Observations of delegation member [b6] notes of delegation member [b6] on conversation with Agent [b6,b7c]

<sup>127</sup> Notes of delegation member [b6] on conversation with Agent [b6,b7c]

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

<sup>129</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

<sup>130</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.N.

<sup>131</sup> Observations of delegation member [b6]

<sup>132</sup> Notes of delegation member [b6] on conversation with Undersheriff [b6,b7c]

<sup>133</sup> Notes of delegation members [b6] and [b6] on conversation with detainee [b6, b7c]

Inmate Rules and Regulations state whether detainees may write more than three pieces of legal mail per week whether they are indigent or not.<sup>134</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>135</sup> Informational posters are to be prominently displayed in the housing units at least forty-eight hours in advance of a scheduled presentation.<sup>136</sup> While the presentations are open to all detainees, the facility “may limit the number of detainees at a single session.”<sup>137</sup> “The facility shall select and provide an environment conducive to the presentation, consistent with security.”<sup>138</sup> In addition, detainees shall have regular opportunities to view an “INS-approved videotaped presentation on legal rights.”<sup>139</sup>

**KDCF does not fully meet this section of the Standards; there does not appear to be a videotaped presentation on legal rights.** According to facility personnel, group rights presentations are conducted approximately every three months and are open to all detainees.<sup>140</sup> The presentations take place in the housing unit, which is an environment conducive to the presentations because it has seating available and can accommodate all the detainees at once.<sup>141</sup> None of the five detainees that the delegation interviewed had ever seen a group rights presentation.<sup>142</sup> Furthermore, none of the detainees interviewed had ever heard about or seen the “Know Your Rights” video.<sup>143</sup>

**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

<sup>134</sup> KDCF Inmate Rules and Regulations, p.1.

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

<sup>136</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

<sup>137</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

<sup>138</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.E.

<sup>139</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.I.

<sup>140</sup> Notes of delegation member [redacted] on conversation with Undersheriff [redacted] b6, b7c

<sup>141</sup> Notes of delegation member [redacted] on conversation with Undersheriff [redacted] b6, b7c

<sup>142</sup> Delegation conversations with detainees X [redacted] and [redacted] b6, b7c  
Detainee [redacted] said a presentation from a nonprofit organization or an outside agency regarding group rights of immigrant detainees would be “very good.” Notes of delegation members [redacted] and [redacted] b6, b7c  
[redacted] on conversation with detainee [redacted] b6, b7c

<sup>143</sup> Delegation conversations with detainees X, [redacted] and [redacted] b6, b7c

facility.<sup>144</sup> 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.<sup>145</sup> Special correspondence—which includes all written communication to or from attorneys, legal representatives, judges, courts, government officials, and the news media—is treated differently.<sup>146</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>147</sup> Outgoing special correspondence may not be opened, inspected, or read.<sup>148</sup>

The detainee handbook must specify how to address correspondence, the definition of special correspondence and how it should be labeled, and the procedure for purchasing postage and rules for providing indigent detainees free postage.<sup>149</sup> The Standards 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; indigent detainees must be permitted to mail at least five pieces of special correspondence and three pieces of general mail per week.<sup>150</sup> Finally, the Standards require that facilities notify detainees of specific information regarding correspondence policies.<sup>151</sup>

**KDCF does not fully meet this section of the Standards: the KDCF Inmate Rules and Regulations do not include the required notification,<sup>152</sup> and indigent detainees apparently are not entitled to receive the required materials for five legal and three general pieces of correspondence per week.** KDCF provides all detainees with the KDCF Inmate Rules and Regulations,<sup>153</sup> but this document does not provide the definition of special correspondence, the process for obtaining free envelopes and stamps for legal mail, the procedure for purchasing postage, or the rules regarding free postage for indigent detainees.<sup>154</sup>

The KDCF Rules and Regulations state that indigent detainees will be furnished with writing materials for up to only three letters per week, and it does not specify whether stamps will be provided, nor does it describe the procedure for detainees to obtain stamps.<sup>155</sup> KDCF detainees report that they have access to writing implements, paper, and office supplies for writing

<sup>144</sup> Detention Operations Manual, Detainee Services, Standard 3, Section I.

<sup>145</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.

<sup>146</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B, E, & F.

<sup>147</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.

<sup>148</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & F.

<sup>149</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B.

<sup>150</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.I, and Standard 1, Section III.N.

<sup>151</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

<sup>152</sup> KDCF Inmate Rules and Regulations, p.1.

<sup>153</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>154</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

<sup>155</sup> KDCF Inmate Rules and Regulations, p.1.

letters.<sup>156</sup> Detainee X confirmed that such resources were available up to three times per week.<sup>157</sup>

As this report discusses above, one detainee reported that his friend had mailed him a telephone card that was rejected by the jail and returned to the sender without explanation.<sup>158</sup> The same detainee also reported that he knows there is a process to obtain free stamps and envelopes to contact attorneys, but has not gone through the process because he believes that the procedure to obtain even small items like toothbrushes is long and complex.<sup>159</sup> Another detainee reported that accessing writing instruments, paper, and mailing materials is not problematic, and that stamps are paid out of the detainee's account.<sup>160</sup>

## 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.<sup>161</sup> Every detainee should receive a copy of the handbook upon admission to the facility.<sup>162</sup> The handbook will be written in English and translated into Spanish and other prevalent languages as appropriate.<sup>163</sup> The handbook must include visitation hours and rules.<sup>164</sup> The handbook must notify detainees of the rules and procedures on recreation, visitation, correspondence, access to personal property, etc.<sup>165</sup> It must also specify rules with which detainees must comply including regarding smoking policy and restricted areas.<sup>166</sup> The grievance section of the handbook must provide notice of the opportunity to file both formal and informal grievances and the procedures for filing grievances and appeals.<sup>167</sup> The handbook must provide notice of the facility's rules of conduct and the sanctions imposed.<sup>168</sup> It must advise detainees of rights including the right to protection from abuse, right to freedom from discrimination, and right to pursue a grievance.<sup>169</sup> The handbook must also state that detainees have the opportunity to submit written questions, requests, or

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<sup>156</sup> Notes of delegation members [b6] and [b6] on conversations with detainees [b6,b7c] and Detainee X.

<sup>157</sup> Notes of delegation member [b6] on conversation with Detainee X.

<sup>158</sup> Notes of delegation members [b6] and [b6] on conversation with detainee [b6,b7c]

<sup>159</sup> Notes of delegation members [b6] and [b6] on conversation with detainee [b6,b7c]

<sup>160</sup> Notes of delegation member [b6] on conversation with Detainee X.

<sup>161</sup> Detention Operations Manual, Detainee Services, Standard 6, Section I.

<sup>162</sup> Detention Operations Manual, Detainee Services, Standard 6, Section I.

<sup>163</sup> Detention Operations Manual, Detainee Services, Standard 6, Section III.E.

<sup>164</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.B.

<sup>165</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

<sup>166</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.C.

<sup>167</sup> Detention Operations Manual, Detainee Services, Standard 5, Section III.G.

<sup>168</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

<sup>169</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

concerns to ICE staff and the procedures for doing so.<sup>170</sup> The Officer in Charge will provide a copy of the handbook to every staff member who has contact with detainees.<sup>171</sup>

**KDCF does not fully meet this section of the Standards. Although the facility does distribute a handbook that conforms to the Standards in many respects, there are a number of significant deficiencies, and detainees did not all receive a handbook when they arrived at the facility.** Two of the five detainees we interviewed indicated that they did not receive a handbook when they entered the facility.<sup>172</sup> The KDCF Rules and Regulations (or “handbook”) do not provide guidelines on recreation, access to personal property, smoking policies, or restricted areas, all of which are specifically identified by the Standards as necessary components.<sup>173</sup> The handbook does not state that detainees have the opportunity to submit questions, requests, or concerns to ICE.<sup>174</sup> Rather, the handbook appears to be addressed to KDCF’s criminal inmates and makes no mention of ICE, DHS, or immigration issues generally.<sup>175</sup> Although the handbook describes the facility’s grievance procedure, it does not contain any information about grievance appeals, and it warns that “repeated inmate grievance forms after the initial request has been answered... will be considered a violation of rules.”<sup>176</sup> In addition, Undersheriff [REDACTED] b6,b7c did not produce a Spanish version of the handbook during our visit, though he said that the updated handbook had recently been translated into Spanish.<sup>177</sup> Detainee X pointed out that a video is shown every two weeks in the facility that shows facility rules.<sup>178</sup>

### C. Recreation

The Standards require that all detainees have access to recreational programs and activities under conditions of security and safety.<sup>179</sup> Detainees should be housed in facilities with outdoor recreation,<sup>180</sup> and be provided at least one hour of recreation daily, five days per week.<sup>181</sup> If a facility only provides indoor recreation, detainees must have access for at least one hour per day,

<sup>170</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

<sup>171</sup> Detention Operations Manual, Detainee Services, Standard 6, Section III.H.

<sup>172</sup> Notes of delegation members [REDACTED] b6 and [REDACTED] b6 on conversation with detainee [REDACTED] b6, b7c notes of delegation members [REDACTED] b6 and [REDACTED] b6 on conversation with detainee [REDACTED] b6, b7c

<sup>173</sup> KDCF Rules and Regulations, pp. 1-3.

<sup>174</sup> KDCF Rules and Regulations, pp. 1-3.

<sup>175</sup> KDCF Rules and Regulations, pp. 1-3.

<sup>176</sup> KDCF Rules and Regulations, p. 2, ¶ 21.

<sup>177</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED] b6,b7c

<sup>178</sup> Notes of delegation member [REDACTED] b6 on conversation with Detainee X.

<sup>179</sup> Detention Operations Manual, Detainee Services, Standard 13, Section I.

<sup>180</sup> 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.”

<sup>181</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.B.



including exposure to natural light.<sup>182</sup> Detainees should have access to “fixed and movable equipment,” including opportunities for cardiovascular exercise, and games and television in dayrooms.<sup>183</sup> Under no circumstances will a facility require detainees to forego law library privileges for recreation privileges.<sup>184</sup>

**It is unclear whether KDCF fully meets this section of the Standards; one detainee reported that recreation is irregular and may be offered fewer than five times per week, while another detainee said he had access to daily recreation.** The facility provides an indoor recreation room that gets some natural light, as well as an outdoor courtyard.<sup>185</sup> The indoor room contains fixed weights, some weight machines in working order,<sup>186</sup> and a ping-ping table, while the outdoor courtyard is empty except for the backboards of basketball hoops that have now been removed.<sup>187</sup> Detainees are permitted to jog or walk outside.<sup>188</sup> Detainees are permitted one hour of recreation per day, during which they can use the indoor or outdoor facilities or access an attached library.<sup>189</sup> The day room also gets some natural light and contains a television.<sup>190</sup> There is no formal policy requiring detainees to choose between recreation and access to the law library, and the delegation observed nothing to suggest that detainees were forced to make such a choice.<sup>191</sup> Detainees may check out a small number of recreation library materials to bring back to their cells, time spent browsing these volumes is time that is not spent pursuing recreation activities.<sup>192</sup>

One detainee, [REDACTED] stated there was limited access to recreation.<sup>193</sup> Specifically, [REDACTED] said that the detainees’ access to recreation was irregular and that recreation was frequently permitted less than five times a week.<sup>194</sup> He said that at one time he went an entire

<sup>182</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

<sup>183</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.G.

<sup>184</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

<sup>185</sup> Observations of delegation member [REDACTED] b6

<sup>186</sup> Observation of delegation member [REDACTED] b6

<sup>187</sup> Observations of delegation member [REDACTED] b6

<sup>188</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED] b6, b7c

<sup>189</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED] notes of delegation members [REDACTED] b6 and [REDACTED] b6 on conversation with detainee [REDACTED] b6, b7c

<sup>190</sup> Observations of delegation member [REDACTED] b6

<sup>191</sup> Notes and observations of [REDACTED] b6 on conversations with Undersheriff [REDACTED] b6, b7c Officer [REDACTED] b6, b7c and detainees.

<sup>192</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED] b6, b7c

<sup>193</sup> Notes of delegation members [REDACTED] b6, b7c and [REDACTED] b6 on conversation with detainee [REDACTED] b6

<sup>194</sup> Notes of delegation members [REDACTED] b6, b7c and [REDACTED] b6 on conversation with detainee [REDACTED] b6

week without recreation.<sup>195</sup> On another occasion, in the week prior to the delegation's visit, he said the detainees were only permitted to take recreation twice.<sup>196</sup> However, [REDACTED] b6 concerns about inadequate recreation were not echoed by the other detainees we interviewed; one detainee, [REDACTED] b6 said that he had access to daily recreation.<sup>197</sup>

**D. Access to Medical Care**

The Standards require that all detainees have access to medical services that promote detainee health and general well-being.<sup>198</sup> 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.<sup>199</sup> For a facility of over 200 detainees, there must be sick call five days per week.<sup>200</sup> Facilities must also have procedures in place to provide emergency medical care for detainees who require it.<sup>201</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>202</sup>

**KDCF meets this section of the Standards.** Upon arrival, detainees are given a physical, including vaccinations if necessary.<sup>203</sup> KDCF has two full-time RNs and three part-time RNs.<sup>204</sup> These nurses visit the housing unit three times daily to dispense medications and perform "sick call."<sup>205</sup> Staff nurses screen and handle routine medical complaints, and a doctor visits three times a week.<sup>206</sup> Nurses and doctors are on call from 7 a.m. to 11 p.m. daily.<sup>207</sup> First aid kits are in the monitoring unit adjacent to (and looking into) the housing unit.<sup>208</sup> In event of an emergency where a nurse or doctor is not immediately available, KDCF staff are able to take a detainee to a hospital almost immediately adjacent to the facility.<sup>209</sup> A mental health clinician

<sup>195</sup> Notes of delegation members [REDACTED] b6 and [REDACTED] b6 on conversation with detainee [REDACTED] b6, b7c

<sup>196</sup> Notes of delegation members S [REDACTED] b6 and M [REDACTED] b6 on conversation with detainee [REDACTED] b6, b7c

<sup>197</sup> Notes and observations of delegation member [REDACTED] b6 on conversations with detainees [REDACTED] b6, b7c and [REDACTED] b6, b7c

<sup>198</sup> Detention Operations Manual, Health Services, Standard 2, Section I.

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

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

<sup>201</sup> Detention Operations Manual, Health Services, Standard 2, Section III.A, D, and G.

<sup>202</sup> Detention Operations Manual, Health Services, Standard 2, Section III.H.

<sup>203</sup> Notes of delegation member [REDACTED] on conversation with KDCF Nurse and Undersheriff [REDACTED] b6, b7c

<sup>204</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>205</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>206</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED] b6, b7c

<sup>207</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED] b6, b7c

<sup>208</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>209</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

visits the facility every week; detainees may be referred to the clinician by KDCF nurses or may request a visit themselves.<sup>210</sup> Detainees' medical records are kept separate from their general files.<sup>211</sup> When a detainee is transferred, medical files are sealed, and when a detainee is deported the detainee is given a summary of his medical records as well as a small supply of any required medications.<sup>212</sup> If a detainee refuses medical care that is deemed necessary, KDCF will contact ICE staff who will try to convince the detainee to consent to care.<sup>213</sup> According to Undersheriff [REDACTED], only once or twice has restraint or forced medication been necessary.<sup>214</sup>

The nearby hospital has a suicide center and mental health center.<sup>215</sup> In the event of an emergency, detainees will be taken here first for evaluation.<sup>216</sup> If, upon evaluation, the detainee is deemed a suicide threat, the detainee can be taken to another prison with extensive mental health facilities until the detainee is stabilized and sent back to KDCF.<sup>217</sup>

**E. Access to Dental Care**

The Standards require that detainees have an initial dental screening exam within 14 days of the detainee's arrival and require the facility to provide emergency dental treatment and repair of prosthetic appliances.<sup>218</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, repair and adjustment of prosthetic appliances, and other procedures required to maintain the detainee's health.<sup>219</sup>

**KDCF appears to meet this section of the Standards.**<sup>220</sup> A dentist visits KDCF every two weeks and can be called in emergencies.<sup>221</sup> KDCF nurses pre-screen dental complaints, and detainees with dental problems are given priority when the dentist visits.<sup>222</sup> This pre-screening is performed during daily sick calls.<sup>223</sup>

<sup>210</sup> Notes of delegation member [REDACTED], on conversation with Undersheriff [REDACTED]  
<sup>211</sup> Notes of delegation member [REDACTED], on conversation with Undersheriff [REDACTED]  
<sup>212</sup> Notes of delegation member [REDACTED], on conversation with Undersheriff [REDACTED]  
<sup>213</sup> Notes of delegation member [REDACTED], on conversation with Undersheriff [REDACTED]  
<sup>214</sup> Notes of delegation member [REDACTED], on conversation with Undersheriff [REDACTED]  
<sup>215</sup> Notes of delegation member [REDACTED], on conversation with Undersheriff [REDACTED]  
<sup>216</sup> Notes of delegation member [REDACTED], on conversation with Undersheriff [REDACTED]  
<sup>217</sup> Notes of delegation member [REDACTED], on conversation with Undersheriff [REDACTED]

<sup>218</sup> Detention Operations Manual, Health Services, Standard 2, Section III.E.

<sup>219</sup> Detention Operations Manual, Health Services, Standard 2, Section III.E.

<sup>220</sup> However, the delegation did not learn whether detainees are given an initial dental screening upon arrival, as required by the Standards.

<sup>221</sup> Notes of delegation member [REDACTED] on conversation with KDCF Nurse and Undersheriff [REDACTED]

<sup>222</sup> Notes of delegation member [REDACTED] on conversation with KDCF Nurse and Undersheriff [REDACTED]

<sup>223</sup> Notes of delegation member [REDACTED] on conversation with KDCF Nurse and Undersheriff [REDACTED]

## F. Detainee Classification System

The Standards require that detention facilities use a classification system and separate detainees into different categories.<sup>224</sup> Detainees must be assigned to the least restrictive housing unit consistent with facility safety and security.<sup>225</sup>

**KDCF detainees are classified by ICE prior to their arrival.**<sup>226</sup> KDCF only houses level two and level three detainees and they are allowed to mingle freely.<sup>227</sup> Immigration detainees are not allowed to mingle with non-immigration inmates.<sup>228</sup>

## 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.<sup>229</sup> Translating assistance for both formal and informal grievances must be provided upon request.<sup>230</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>231</sup> All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.<sup>232</sup>

Additionally, the Standards require the facility to provide each detainee with a copy of the detainee handbook, which must provide notice of (1) the opportunity to voice both formal and informal grievances, (2) "[t]he procedures for filing a grievance and appeal," (3) "[t]he procedures for resolving a grievance or appeal," (4) "[t]he procedures for contacting the INS to appeal the decision of the OIC," (5) the policy prohibiting retaliating against any detainee for filing a grievance, and (6) "[t]he opportunity to file a complaint about officer misconduct directly with the Justice Department."<sup>233</sup>

**KDCF does not fully meet this section of the Standards: the KDCF Inmate Rules and Regulations does not include required information, and according to one detainee a supervisor did not process his grievance.** According to KDCF personnel, if a detainee has a

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

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

<sup>226</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>227</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>228</sup> Notes of delegation member [REDACTED] on conversation with Agent [REDACTED]

<sup>229</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.A.

<sup>230</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections III.A.1 & 2.

<sup>231</sup> Detention Operations Manual, Detainee Services, Standard 5, Section I.

<sup>232</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.C & D.

<sup>233</sup> Detention Operations Manual, Detainee Services, Standard 5, Section III.G.

grievance, he or she will ask an officer for an "Inmate Request Slip."<sup>234</sup> Upon completing the slip, the detainee will give the slip back to the officer on the floor.<sup>235</sup> At that point, the grievance can either "be handled by the floor officer, or filtered up the chain of command."<sup>236</sup> Detainees must receive a written response to their formal grievances within seven days.<sup>237</sup> Detainees that need assistance completing grievances can seek help from other detainees or from the facility social worker.<sup>238</sup> Additionally, detainees can voice their grievances informally by notifying the supervisory staff.<sup>239</sup>

The KDCF Inmate Rules and Regulations provides that "[a]ll grievances can be made known to a Shift Commander, who in turn, will discuss the situation with you, and a copy of the grievance will be forwarded to the Undersheriff."<sup>240</sup> The handbook does not, however, provide notice of the procedures for filing an appeal, the procedures for resolving a grievance or appeal, the policy prohibiting retaliation against any detainee for filing a grievance, or the opportunity to file a complaint about officer misconduct directly to the Justice Department.<sup>241</sup> Additionally, one of the detainees the delegation interviewed, [REDACTED] b6 did not receive a handbook and was not made aware of the grievance procedures.<sup>242</sup> Detainee X reported that he was subject to a strip search which he felt was excessive, and raised the issue with the supervisor of the officer who searched him.<sup>243</sup> Detainee X reported to the delegation that the supervisor refused to hear his complaint, stating that whatever the subordinate officer did, it was correct.<sup>244</sup> Detainee X did not appear to be aware of any further procedures to deal with his grievance.<sup>245</sup> Detainee X stated that the next time he left the Facility, he was taunted by the same officer that he would be subject to the same type of strip search upon his return.<sup>246</sup>

### H. 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>247</sup> Each facility holding ICE detainees must have a

<sup>234</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]  
<sup>235</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]  
<sup>236</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]  
<sup>237</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED] b6,b7c  
<sup>238</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]  
<sup>239</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED]

<sup>240</sup> KDCF Inmate Rules and Regulations, ¶ 21.

<sup>241</sup> KDCF Inmate Rules and Regulations, ¶ 21.

<sup>242</sup> Notes of delegation member [REDACTED] b6 on conversation with detainee [REDACTED] b6,b7c

<sup>243</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>244</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>245</sup> Notes of delegation member [REDACTED] b6 on conversation with Detainee X.

<sup>246</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>247</sup> Detention Operations Manual, Security, and Control, Standard 5, Section I.

detainee disciplinary system which has "progressive levels of reviews, appeals, procedures, and documentation procedures."<sup>248</sup> The disciplinary policy must clearly define detainee rights and responsibilities, and any disciplinary action must not be capricious or retaliatory.<sup>249</sup>

The following sanctions may not be imposed: "corporal punishment; deviations from normal food services; deprivation of clothing, bedding, or items of personal hygiene; deprivation of correspondence privileges; or deprivation of physical exercise unless such activity creates an unsafe condition."<sup>250</sup> Officers who witness a prohibited act must prepare and submit an incident report.<sup>251</sup> The Standards provide that all incident reports filed by officers must be investigated within twenty-four hours of the incident.<sup>252</sup>

The detainee handbook must notify detainees of the disciplinary process, the prohibited acts and disciplinary severity scale, and the procedure for appeals.<sup>253</sup> The handbook must also notify detainees of specific rights, including the right to protection from abuse, harassment, and discrimination, the right to pursue a grievance, and the right to due process, including prompt resolution of a disciplinary matter.<sup>254</sup>

**KDCF substantially meets this section of the Standards, but KDCF does not notify detainees of their right to protection from discrimination, and conducts investigations within forty-eight hours of filing incident reports, rather than within twenty-four hours.** When a rules violation occurs, provided the violation is not minor, a written report is filed.<sup>255</sup> Minor violations will sometimes be handled with verbal warnings or on-the-spot corrections.<sup>256</sup> For more serious violations, the reporting officer will file an administrative charge.<sup>257</sup> An investigation of the infraction is conducted within 48 hours, and detainees then have the opportunity to attend a hearing in front of the disciplinary committee.<sup>258</sup> Disciplinary committee determinations can be appealed to the Undersheriff, who can reduce but not increase the sanction imposed.<sup>259</sup> The most severe punishment a detainee can receive following one charge is fifteen

<sup>248</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.1.

<sup>249</sup> Detention Operations Manual, Security, and Control, Standard 5, Section III.A.1 & A.2.

<sup>250</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.3.

<sup>251</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.B.

<sup>252</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.B and III.C.

<sup>253</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.L.

<sup>254</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

<sup>255</sup> Notes of delegation member [redacted] on conversation with Undersheriff

<sup>256</sup> Notes of delegation member [redacted] on conversation with Undersheriff KDCF  
Inmate Rules and Regulations, ¶ 22.

<sup>257</sup> Notes of delegation member [redacted] on conversation with Undersheriff b6, b7c

<sup>258</sup> Notes of delegation member [redacted] on conversation with Undersheriff KDCF  
Inmate Rules and Regulations, ¶ 22.

<sup>259</sup> Notes of delegation member [redacted] on conversation with Undersheriff KDCF  
Inmate Rules and Regulations, ¶ 22.

days in solitary confinement.<sup>260</sup> A detainee found guilty of more than one charge can receive fifteen days in solitary confinement for each charge, provided that the total time served in confinement does not exceed 30 days.<sup>261</sup>

The KDCF Inmate Rules and Regulations notifies detainees of the disciplinary process, the prohibited acts and disciplinary severity scale, and the appeal procedure of disciplinary findings.<sup>262</sup> In addition, the KDCF Inmate Rules and Regulations notifies detainees of the facility's rules of conduct and the sanctions imposed for major violations of these rules.<sup>263</sup> The handbook also advises detainees of their due process rights and their right to protection from corporal punishment as well as other prohibited punishments, such as deprivation of food or clothing.<sup>264</sup> The handbook does not, however, advise detainees of their right to protection from discrimination.<sup>265</sup> None of the detainees the delegation interviewed reported being disciplined in any way.<sup>266</sup>

### I. Special Management Unit

The Standards suggest that each facility establish a Special Management Unit ("SMU") that will isolate certain detainees from the general population.<sup>267</sup> The Standards for Administrative and Disciplinary Segregation differ somewhat from one another, but both provide for legal access and other protections. A detainee may be placed in disciplinary segregation only by order of the Institutional Disciplinary Committee, after a hearing in which the detainee has been found to have committed a prohibited act.<sup>268</sup> The disciplinary committee may order placement in disciplinary segregation only when alternative dispositions would inadequately regulate the detainee's behavior.<sup>269</sup>

All cells in the SMU must be well ventilated, appropriately heated, and sanitary, and must be equipped with beds.<sup>270</sup> Segregated detainees shall have the opportunity to maintain a normal

<sup>260</sup> Notes of delegation member [REDACTED] b6 conversation with Undersheriff [REDACTED] KDCF Inmate Rules and Regulations, ¶ 22

<sup>261</sup> Notes of delegation member [REDACTED] b6 on conversation with Undersheriff [REDACTED] b6, b7c KDCF Inmate Rules and Regulations, ¶ 22

<sup>262</sup> KDCF Inmate Rules and Regulations, ¶ 22.

<sup>263</sup> KDCF Inmate Rules and Regulations, ¶ 22.

<sup>264</sup> KDCF Inmate Rules and Regulations, ¶ 22.

<sup>265</sup> KDFC Inmate Rules and Regulations, ¶ 22.

<sup>266</sup> Delegation conversations with detainees Detainee X, [REDACTED] b6, b7c and [REDACTED] b6, b7c

<sup>267</sup> Detention Operations Manual, Security, and Control, Standard 14, Section I.

<sup>268</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.A.

<sup>269</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.A.

<sup>270</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.2, and Standard 14, Section III.D.6.

level of personal hygiene.<sup>271</sup> Recreation shall be provided to detainees in segregation in accordance with the "Recreation" standard.<sup>272</sup> Access to the law library shall generally be granted to detainees in segregation.<sup>273</sup> Detainees generally retain visiting privileges while in disciplinary segregation, and may not be denied legal visitation.<sup>274</sup>

Detainees in administrative segregation generally have the same telephone privileges as other detainees,<sup>275</sup> while detainees in disciplinary segregation shall be restricted to telephone calls for calls relating to the detainee's immigration case or other legal matters, calls to consular/embassy officials, and family emergencies.<sup>276</sup> Detainees in segregation shall have the same correspondence privileges as detainees in the general population.<sup>277</sup>

**KDCF does not meet this section of the Standards: segregated detainees do not have access to recreation or showers.** The delegation received conflicting information on segregation procedures. Initially, Agent [b6,b7c] said that segregated detainees stay in their own cells on the housing unit.<sup>278</sup> In this case, segregation is accomplished by only allowing the segregated detainee out of his cell when other detainees are in their cells or otherwise out of the unit.<sup>279</sup> However, Agent [b6,b7c] later stated that segregated detainees are removed to the third floor of KDCF, which serves as a detention area for the entire facility.<sup>280</sup> In any event, segregated detainees eat in their cells and are not allowed to shower, take recreation, or otherwise interact with other detainees.<sup>281</sup> Agent [b6,b7c] stated that in addition to disciplinary segregation, detainees may be segregated at the detainee's request or when it is considered necessary for the detainee's safety.<sup>282</sup>

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

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

<sup>271</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.11.

<sup>272</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.8, and Standard 14, Section III.D.13.

<sup>273</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.18, and Standard 14, Section III.D.15.e.

<sup>274</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.13 & 14, and Standard 14, Section III.D.17.

<sup>275</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.16.

<sup>276</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.19.

<sup>277</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.20, and Standard 14, Section III.D.18.

<sup>278</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]

<sup>279</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]

<sup>280</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]

<sup>281</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]

<sup>282</sup> Notes of delegation member [redacted] on conversation with Agent [redacted]



written requests to ICE staff and receive an answer in an acceptable time frame.”<sup>283</sup> The Standards suggest that weekly visits be conducted by ICE personnel and that “regular unannounced (not scheduled) visits” be conducted by the ICE OIC, the Assistant OIC, and designated department heads.<sup>284</sup> Unannounced visits to the facility’s housing areas must be conducted on a regular basis.<sup>285</sup> The purpose of such visits is to monitor housing conditions, interview detainees, review records, and answer questions for detainees who do not comprehend the immigration removal process.<sup>286</sup> The Standards also require that detainees “have the opportunity to submit written questions, requests, or concerns to ICE staff,” which “shall be delivered to ICE staff by authorized personnel (not detainees) without reading, altering, or delay.”<sup>287</sup> The detainee handbook must notify detainees of their right to submit these questions or concerns to ICE staff and the procedures for doing so.<sup>288</sup> All facilities that house ICE detainees must have “written procedures to route detainee requests to the appropriate ICE official” and must assist detainees “who are disabled, illiterate, or know little or no English.”<sup>289</sup> Moreover, the Standards suggest that detainee requests be forwarded to the appropriate ICE office within 72 hours and “answered as soon as possible or practicable, but not later than 72 hours from receiving the request.”<sup>290</sup>

**KDCF appears to meet this section of the Standards.** Agent [b6,b7c] makes two weekly visits, one visit every Tuesday and another, unannounced visit each week to KDCF.<sup>291</sup> His Tuesday visit is usually at the same time every week,<sup>292</sup> and notice is posted on the bulletin board.<sup>293</sup> His unannounced visit varies from week to week.<sup>294</sup> Agent [b6,b7c] also makes one unannounced visit every week.<sup>295</sup> Agent [b6,b7c] and Agent [b6,b7c] say they coordinate their visits to ensure that there is an agent present at KDCF three days per week.<sup>296</sup> Agent [b6,b7c] says that if requested he will come to KDCF as soon as possible for emergencies, but there are rarely any such requests made because the agents come three times a week.<sup>297</sup> KDCF uses the

<sup>283</sup> Detention Operations Manual, Detainee Services, Standard 15, Section I.

<sup>284</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

<sup>285</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.1.

<sup>286</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

<sup>287</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

<sup>288</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

<sup>289</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

<sup>290</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.1.

<sup>291</sup> Notes of delegation member [b6] on conversation with Agent [b6,b7c]

<sup>292</sup> Notes of delegation member [b6] on conversation with Agent [b6,b7c]

<sup>293</sup> Observations of delegation member [b6]

<sup>294</sup> Notes of delegation member [b6] on conversation with Agent [b6,b7c]

<sup>295</sup> Notes of delegation member [b6] on conversation with Agent [b6,b7c] and Agent [b6,b7c]

<sup>296</sup> Notes of delegation member [b6] on conversation with Agent [b6,b7c] and Agent [b6,b7c]

<sup>297</sup> Notes of delegation member [b6] on conversation with Agent [b6,b7c]

general request form for requests to speak with someone from ICE.<sup>298</sup> The detainees are not given written procedures for this, but Agent [b6,b7c] suggested that the detainees are aware of how to make a request to meet with an ICE agent.<sup>299</sup>

#### K. 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>300</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. 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>301</sup> Detainees shall have access to religious property consistent with facility security.<sup>302</sup> Moreover, a facility’s staff shall make “all reasonable efforts to accommodate” special food services required by a detainee’s particular religion.<sup>303</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>304</sup>

**It is unclear whether KDCF meets this section of the Standards. KDCF staff stated that they make religious accommodations, but two Muslim detainees indicated that they have been unable to practice their religion because they do not have access to prayer rugs in their cells and are not able to save food for evening meals during Ramadan.** It is unclear whether KDCF is providing equitable opportunities to participate in various faiths. While KDCF does provide Christian services each week, no other types of religious services are offered unless requested.<sup>305</sup> Undersheriff [b6,b7c] commented that although other types of services are permitted upon request, no one ever requests them.<sup>306</sup> Two detainees indicated that they are Muslims, and the facility did not offer any Islamic religious services and had not made accommodations for daytime fasting during Ramadan.<sup>307</sup> Undersheriff [b6,b7c] explained that the kitchen can accommodate various religious restrictions such as Kosher and Halal along with other dietary restrictions such as vegetarian and various food allergies.<sup>308</sup> However, one of the Muslim detainees interviewed by the delegation reported that the religious dietary restrictions

<sup>298</sup> Notes of delegation member [b6] on conversation with Agent [b6,b7c]

<sup>299</sup> Notes of delegation member [b6] on conversation with Agent [b6,b7c]

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

<sup>301</sup> Detention Operations Manual, Detainee Services, Standard 14, Section I.

<sup>302</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.K.

<sup>303</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

<sup>304</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.O.

<sup>305</sup> Notes of delegation member [b6] on conversation with Undersheriff [b6,b7c]

<sup>306</sup> Notes of delegation member [b6] on conversation with Undersheriff [b6,b7c]

<sup>307</sup> Notes of delegation member [b6] on conversation with detainee [b6,b7c] notes of delegation member [b6] on conversation with Detainee X.

<sup>308</sup> Notes of delegation member [b6] on conversation with Undersheriff [b6,b7c]

regarding meal time are not always followed, as he has tried to save food for the evenings during Ramadan that the guards have sometimes thrown away because all food is required to be removed from the housing unit immediately after the meal is finished.<sup>309</sup> The KDCF social worker stated that she is able to provide religious articles such as copies of the Bible, Quran, and Torah, rosaries, and prayer carpets,<sup>310</sup> all of which the detainees are permitted to keep in their cells with them.<sup>311</sup> However, Detainee X mentioned that he was not allowed to keep a prayer rug in his cell,<sup>312</sup> in contradiction to the statement by Undersheriff DiMarco.<sup>313</sup>

#### L. 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>314</sup> Participation must be voluntary, and detainees may not work more than eight hours per day, and 40 hours per week.<sup>315</sup>

**KDCF does not meet this section of the Standards: there is a work program for regular inmates at the facility, but detainees are not allowed to work at the facility.**<sup>316</sup>

#### M. 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.<sup>317</sup> The Standards require ICE to notify a detainee’s legal representative of record that the detainee is being transferred.<sup>318</sup> 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.<sup>319</sup> Records including the detainee’s Alien File (“A-file”) and health records (or transfer summary for IGSA) must accompany the detainee.<sup>320</sup> 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.<sup>321</sup> A detainee’s legal materials,

<sup>309</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>310</sup> Notes of delegation member, [REDACTED] on conversation with social worker [REDACTED].

<sup>311</sup> Notes of delegation member, [REDACTED] on conversation with Undersheriff [REDACTED].

<sup>312</sup> Notes of delegation member [REDACTED] on conversation with Detainee X.

<sup>313</sup> Notes of delegation member [REDACTED] on conversation with Undersheriff [REDACTED].

<sup>314</sup> Detention Operations Manual, Detainee Services, Standard 37, Sections I & III.A.

<sup>315</sup> Detention Operations Manual, Detainee Services, Standard 37, Sections III.A & H.

<sup>316</sup> Notes of delegation member [REDACTED] on conversation with Agent [REDACTED].

<sup>317</sup> Detention Operations Manual, Detainee Security, and Control, Standard 4, Section I.

<sup>318</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Section III.A.

<sup>319</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.G.

<sup>320</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.D.I and III.D.6.

<sup>321</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Section III.D.D [sic].

cash, and small valuables shall always accompany the detainee to the receiving facility; larger items may be shipped.<sup>322</sup>

KDCF may meet this section of the Standards; however, two of the detainees interviewed were not informed that they were permitted to make a phone call upon being transferred to the facility.<sup>323</sup> With regard to detainees' medical records, the KDCF nurse and Undersheriff b6,b7c confirmed that these files and a small supply of required medication "follow" the detainee during transfers and at deportation.<sup>324</sup>

## V. CONCLUSION

KDCF meets the requirements of several of the ICE Detention Standards but fails to meet a number of sections. With respect to those Standards that KDCF does not meet, the suggestions of the delegation are provided below.

### Visitation

To facilitate legal visitation, KDCF should avoid stopping visits for changes in security. To facilitate social visitation, KDCF should consider a more flexible visitor list system and should ensure that detainees are sufficiently informed about the visitor list policy.

### Telephone Access

To provide adequate telephone access to detainees, KDCF should increase the time limit on calls and ensure that detainees are sufficiently informed about telephone rules, in particular with respect to monitoring and privacy. KDCF should not record or monitor legal phone calls (absent a court order), and if regular phone calls are monitored, KDCF should provide detainees with a procedure for obtaining an unmonitored call for legal purposes. KDCF should also verify that an appropriate system is in place to deal with calls and messages to detainees from outside and ensure that detainees are sufficiently informed about such a system. KDCF should also examine its rules regarding phone cards and ensure that its phone card policy provides sufficient access for all detainees.

### Access to Library and Legal Material

To support the detainees' access to legal materials and legal representation, KDCF should provide more information to all detainees regarding the legal resources available to them, in particular the law library. Detainees should be specifically informed that Lexis-Nexis is the primary resource, and that as a result they should not be discouraged by obsolete books. However, KDCF also needs to inspect and update the printed materials provided in the law

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<sup>322</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.E.

<sup>323</sup> Notes of delegation members b6 and b6 on conversation with Detainee X; notes of delegation members b6 and b6 on conversation with detainee b6, b7c

<sup>324</sup> Notes of delegation member b6 on conversation with the KDCF nurse and Undersheriff b6,b7c

library. KDCF should also clarify for detainees the difference between the law library and the recreation library. Detainees in segregation should be given access to the law library.

Correspondence and Other Mail

With respect to mail and other correspondence, the KDCF Rules and Regulations should be updated to include the notifications required in the Standards, including the definition of special correspondence, the process for obtaining free mailing materials for legal correspondence, the procedure for purchasing postage, and the provisions for free postage for indigent detainees.

Detainee Handbook

The KDCF Inmate Rules and Regulations (the handbook) should be updated to provide guidance on recreation, personal property, grievance processes, and communications with ICE. At present, the KDCF Rules and Regulations is addressed to criminal inmates and makes no mention of DHS, ICE, or detainees/immigration matters. KDCF should also make sure a Spanish version of the handbook is available, and produce translations in additional languages if feasible.

Detainee Grievance Procedures

KDCF should update its Handbook to include grievance procedures and its policy prohibiting retaliation for filing grievances.

Religious Practices

KDCF should ensure that sufficient accommodations are made for dietary and other religious needs, including providing for evening meals during Ramadan.

Voluntary Work Program

KDCF should allow the detainees opportunity to work for pay.

Facility Name: **KEOGH-DWYER CORRECTIONAL FACILITY, NEWTON, NEW JERSEY**

Date of Tour: **July 25, 2007**

Tour Participants: Latham & Watkins LLP attorneys and summer associates [redacted] b6

and [redacted] b6

*\*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.	<p><b>Standard 16, Telephone Access</b></p> <ul style="list-style-type: none"> <li>▪ <b>I. Facilities holding [ICE] detainees shall permit them to have reasonable and equitable access to telephones.</b></li> <li>▪ <b>III.F. The facility shall not restrict the number of calls a detainee places to his/her legal representative, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call if desired, at the first available opportunity. The facility may place reasonable restrictions on the hours, frequency and duration of the other direct and/or free calls listed above [i.e., "other" than calls to detainee's legal representatives].</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>According to the handbook and one detainee, telephone calls are limited to 15 minutes. (p.7 ¶3, p.8 ¶1) Undersheriff [redacted] stated, however, that calls are virtually never cut off at the fifteen-minute mark (although the detainees are informed that the staff may do so) because the inmates enforce the fifteen-minute rule among themselves. (p.8 ¶1)</b></li> </ul>	<p><b>KDCF Inmate Rules and Regulations; Detainee X; Undersheriff [redacted]</b></p>	
2.	<p><b>Standard 16, Telephone Access</b></p> <ul style="list-style-type: none"> <li>▪ <b>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.</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>According to staff, incoming phone calls and messages are accepted and delivered within a day of receipt, except on weekends when the social worker is off. (p.9 ¶2) However, according to one detainee, it is impossible for outsiders to make incoming calls, and he is unaware of any telephone number that he can provide to family for emergencies. (p.9 ¶2)</b></li> </ul>	<p><b>Social worker [redacted] and Agent [redacted] Detainee X</b></p>	

<p>3. <b>Standard 16, Telephone Access</b></p> <ul style="list-style-type: none"> <li>▪ <b>III.J.</b> 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.</li> </ul>	<ul style="list-style-type: none"> <li>▪ One detainee was not aware how to make private calls. (p.8 ¶2) The telephones in the dayrooms do not have privacy safeguards. (p.7 ¶3) The detainee stated that during legal calls there was always someone standing nearby so there was no privacy. (p.8 ¶1)</li> <li>▪ According to staff, all calls may be recorded and monitored (p.8 ¶1)</li> </ul>	<p>Detainee X; delegation observations</p> <p>Undersheriff KDCF Inmate Rules and Regulations</p>	
<p>4. <b>Standard 1, Access to Legal Material</b></p> <ul style="list-style-type: none"> <li>▪ <b>III.C.</b> The law library shall contain the materials listed in Attachment A.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The law library has Lexis-Nexis, but does not have several required sources: <i>Legal Research in a Nutshell</i>; <i>Directory of Nonprofit Agencies that Assist Persons in Immigration Matters</i>; <i>Legal Research &amp; Writing</i>; <i>Rights of Prisoners</i>; and <i>Human Rights Watch-World Report</i>. These materials are also not available in hard copy. (p.12 ¶1)</li> </ul>	<p>Delegation observations</p>	
<p>5. <b>Standard 1, Access to Legal Material</b></p> <ul style="list-style-type: none"> <li>▪ <b>III.Q.</b> The detainee handbook ... shall provide detainees with the rules and procedures governing access to legal materials, including ... 1. that a law library is available for detainee use; 2. the scheduled hours of access to the law library; 3. the procedure for requesting access to the law library; 4. the procedure for requesting additional time in the law library ....</li> </ul>	<ul style="list-style-type: none"> <li>▪ The KDCF Inmate Rules and Regulations do not specify the rules and procedures for library access or for requesting additional time in the library. (p. 10 ¶2) Some detainees appear to be unaware of the existence of the law library or how to request access to the law library. (p.10 ¶2)</li> </ul>	<p>KDCF Inmate Rules and Regulations; detainees X, and</p>	
<p>6. <b>Standard 9, Group Presentations on Legal Rights</b></p> <ul style="list-style-type: none"> <li>▪ <b>III.C.</b> Presentations are open to all detainees, ...</li> <li>▪ <b>III.I.</b> 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.</li> </ul>	<ul style="list-style-type: none"> <li>▪ None of the detainees interviewed had ever heard about or seen the "Know Your Rights" video. (p.13 ¶3)</li> </ul>	<p>Detainees X, and</p>	

7.	<p><b>Standard 3, Correspondence and Other Mail</b></p> <ul style="list-style-type: none"> <li>III.B. The facility shall notify detainees of its policy in correspondence and other mail through the detainee handbook or equivalent ... [and] shall specify: ... 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. ... 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 ....</li> </ul> <p><b>Standard 1, Access to Legal Material</b></p> <ul style="list-style-type: none"> <li>III.N. The facility will provide indigent detainees with free envelopes and stamps for mail related to a legal matter....</li> </ul>	<ul style="list-style-type: none"> <li>The KDCF Inmate Rules and Regulations do not provide the definition of special correspondence, the process for obtaining free envelopes and stamps for legal mail, the procedure for purchasing postage, or the rules regarding free postage for indigent detainees. (p.14 ¶3)</li> <li>The KDCF Rules and Regulations state that indigent detainees will be furnished with writing materials for up to only three letters per week, and it does not specify whether stamps will be provided. (p.14 ¶4)</li> </ul>	<p>KDCF Inmate Rules and Regulations</p> <p>KDCF Inmate Rules and Regulations</p>	
8.	<p><b>Standard 6, Detainee Handbook</b></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. The handbook will also describe the services, programs, and opportunities available .... Every detainee will receive a copy of this handbook upon admission to the facility.</li> <li>III.C. The handbook will specify in greater detail the rules, regulations, policies, and procedures with which every detainee must comply, including, but not limited to: smoking policy, restricted areas, contraband, and so forth.</li> </ul> <p><b>Standard 15, Staff-Detainee Communication</b></p> <ul style="list-style-type: none"> <li>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 ....</li> </ul>	<ul style="list-style-type: none"> <li>Two of five detainees interviewed indicated that they did not receive a handbook upon admission. (p.16 ¶2)</li> <li>The handbook has no guidelines on recreation, access to personal property, smoking policies, or restricted areas. (p.16 ¶2)</li> <li>The handbook does not state that detainees have the opportunity to submit questions, requests, or concerns to ICE. (p.16 ¶2)</li> </ul>	<p>Detainees and</p> <p>b6/b7c</p> <p>KDCF Rules and Regulations</p> <p>KDCF Rules and Regulations</p>	
9.	<p><b>Standard 13, Recreation</b></p> <ul style="list-style-type: none"> <li>III.B.1. If outdoor recreation is available at the facility, each detainee shall have access for at least one hour daily, at a reasonable time of day, five days a week, weather permitting.</li> </ul>	<ul style="list-style-type: none"> <li>One detainee stated that access to recreation was irregular and often less than five days a week. (p.17 ¶3)</li> </ul>	<p>Detainee</p> <p>b6/b7</p>	



10.	<p><b>Standard 5, Detainee Grievance Procedures</b></p> <ul style="list-style-type: none"> <li>▪ I. Policy. Every facility will develop standard operating procedures (SOP) that address detainee grievances.... All grievances will receive supervisory review.</li> <li>▪ III.G. Detainee Handbook. ... The grievance section of the detainee handbook will provide notice of the following: <ul style="list-style-type: none"> <li>... 2. The procedures for filing a grievance and appeal, including the availability of assistance in preparing a grievance.</li> <li>3. The procedures for resolving a grievance or appeal, including the right to have the grievance referred to higher levels if the detainee is not satisfied that the grievance has been adequately resolved.</li> <li>4. The procedures for contacting the [ICE] to appeal the decision of the OIC of a CDF or an IGSA facility.</li> <li>5. The policy prohibiting staff from harassing, disciplining, punishing or otherwise retaliating against any detainee for filing a grievance.</li> <li>6. The opportunity to file a complaint about officer misconduct directly with the Justice Department</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ One detainee stated that a supervisor refused to hear his complaint when he tried to report a grievance about a strip search. (p.21 ¶2)</li> <li>▪ The handbook does not provide notice of the procedures for filing a grievance appeal, the procedures for resolving a grievance or appeal, the policy prohibiting retaliation against any detainee for filing a grievance, or information about the opportunity to file a complaint about officer misconduct directly to the Justice Department. (p.21 ¶2)</li> </ul>	<p>Detainee X</p> <p>KDCF Inmate Rules and Regulations</p>	
11.	<p><b>Security and Control Standard 5, Disciplinary Policy</b></p> <ul style="list-style-type: none"> <li>▪ III.A.2. Disciplinary action may not be capricious or retaliatory.</li> <li>▪ III.A.5. The detainee handbook or equivalent, issued to each detainee upon admittance, shall provide notice of the facility's rules of conduct ... Among other things, the handbook shall advise detainees of the following: a. The right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment; b. The right of freedom from discrimination</li> <li>▪ III.C. IGSA's shall have procedures in place to ensure that all incident reports are investigated within 24 hours of the incident.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Investigation of an infraction is conducted within forty-eight hours of filing incident reports, rather than within twenty-four hours. (p.22 ¶4)</li> <li>▪ KDCF does not notify detainees of their right to protection from discrimination. (p.23 ¶2)</li> </ul>	<p>Undersheriff 6/19 KDCF Inmates Rules and Regulations</p> <p>KDCF Inmates Rules and Regulations</p>	
12.	<p><b>Security and Control Standard 5, Disciplinary Policy</b></p> <ul style="list-style-type: none"> <li>▪ III.A.3. Staff may not impose or allow imposition of the following sanctions: corporal punishment; deviations from normal food services; deprivation of clothing, bedding, or items of personal hygiene; deprivation of correspondence privileges; or deprivation of physical exercise unless such activity creates an unsafe condition.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Segregated detainees eat in their cells and are not allowed to shower or take recreation. (p.25 ¶3)</li> </ul>	<p>Agent 6/17</p>	

13.	<p><b>Standard 14, Religious Practices</b></p> <ul style="list-style-type: none"> <li>III.K. Detainees shall have access to personal religious property, consistent with facility security. Detainee religious property includes ... rosaries and prayer beads, oils, prayer rugs ....</li> </ul> <p><b>Standard 14, Religious Practices</b></p> <ul style="list-style-type: none"> <li>III.M. The food service will implement procedures for accommodating, within reason, detainees' religious dietary requirements.</li> </ul> <p><b>Standard 16, Food Service</b></p> <ul style="list-style-type: none"> <li>III.E. Religious/Special Diets. The INS requires all facilities to provide detainees requesting a religious diet reasonable and equitable opportunities to observe their religious dietary practice within the constraints of budget limitations and the security and orderly running of the facility through a common fare menu.</li> </ul>	<ul style="list-style-type: none"> <li>One detainee said he is not allowed to keep a prayer rug in his cell, in contradiction to a statement by Undersheriff [REDACTED] (p.27 ¶1)</li> <li>Two detainees indicated that they are Muslims, and the facility did not offer any Islamic religious services and had not made accommodations for daytime fasting during Ramadan. One of these detainees reported that religious dietary restrictions regarding meal time are not always followed; he tried to save food for the evenings during Ramadan but the guards have sometimes thrown it away because all food is required to be removed from the housing unit immediately after the meal is finished. (p.26 ¶3)</li> </ul>	<p>Detainee X; Undersheriff [REDACTED]</p> <p>Detainees [REDACTED] and X</p>	
14.	<p><b>Standard 18, Voluntary Work Program</b></p> <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>A work program for regular inmates exists at the facility, but detainees are not allowed to work at the facility. (p.27 ¶3)</li> </ul>	<p>Agent [REDACTED]</p>	
15.	<p><b>Security and Control Standard 4, Detainee Transfers</b></p> <ul style="list-style-type: none"> <li>III.G. Indigent detainees being transferred will be authorized a single domestic phone call at the Government's expense upon arrival at their final destination. ... Non-indigent detainees shall have access to make calls at their own expense pursuant to the Telephone Access Detention Standard.</li> </ul>	<ul style="list-style-type: none"> <li>Two of the detainees interviewed were not informed that they were permitted to make a phone call upon being transferred to the facility. (p.28 ¶2)</li> </ul>	<p>Detainees [REDACTED] and X</p>	