

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

b6

**Holland & Knight LLP  
131 South Dearborn Street  
Chicago, Illinois 60603-5506  
312.263.3600**

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

**DATE: September 10, 2004**

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

### **I. Detention Standards**

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

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

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

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

## II. The Delegation’s Visit

In connection with the ABA Initiative, a group of attorneys and paralegals from Holland & Knight LLP (“Delegation”) toured the Facility on July 13, 2004, to determine whether the Facility has implemented the Detention Standards. The Delegation, consisting of [REDACTED] b6 [REDACTED] b6 and Jam [REDACTED] b6 et wi th [REDACTED] b6, b7C the Facility’s shift supervisor, and other members of the Facility’s staff for a tour of the Facility, and interviews with Detainees. This report is based on the observations of the members of the Delegation during that visit.

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

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

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

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

A “Detainee Handbook” is posted in each dormitory of the Facility. Individual copies of this handbook are not distributed to the Detainees, although Officer [REDACTED] b6, b7C as copies available in his office for review. The Facility’s rules are posted in both English and Spanish. According to Officer [REDACTED] b6, b7C the Facility rules include those in the Detainee Handbook.

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

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

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

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

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

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

---

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

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

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

There is one printer available for printing materials found on Lexis and Detainees may print legal materials free of charge. Further, Detainees may obtain photocopies of any legal materials by filling out a request form and paying 25 cents per copy. However, if a Detainee is deemed indigent, he or she may make photocopies free of charge, provided the amount of material to be copied is not unreasonably voluminous. Typically, if a Detainee is deemed indigent, requests for personal items must be made through and approved by Sister b6 the Facility's "in house" religious advisor. Detainees may also save legal materials to a computer

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

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

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

---

<sup>2</sup> Detainee interview notes of [b6] [b6] and [b6] [b6]

<sup>3</sup> Detainee interview notes of [b6] [b6] and [b6] [b6]

<sup>4</sup> Detainee interview notes of [b6] [b6]. It is not clear whether this Detainee was in a segregated unit.

<sup>5</sup> Detainee interview notes of [b6] [b6]

## **B. Group Rights Presentations**

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

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

## **C. Visitation**

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

---

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

---

<sup>13</sup> Detainee interview notes of [REDACTED]

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

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

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

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

---

<sup>14</sup> Detainee interview notes of [REDACTED], [REDACTED]

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

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

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

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

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

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

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

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

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

---

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

<sup>22</sup> Detainee interview notes of [b6] [b6] and [b6], [b6]

<sup>23</sup> Detainee interview notes of [b6] [b6] and [b6] [b6]

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

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

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

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

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

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

---

<sup>24</sup> Detainee interview notes of

<sup>25</sup> Detainee interview notes of

<sup>26</sup> Detainee interview notes of

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

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

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

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

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

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

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

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

---

<sup>30</sup> Detainee interview notes of [REDACTED]

<sup>31</sup> Detainee interview notes of [REDACTED]

<sup>32</sup> Detainee interview notes of [REDACTED] and [REDACTED]

<sup>33</sup> Detainee interview notes of [REDACTED]

<sup>34</sup> Detainee interview notes of [REDACTED]

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

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

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

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

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

---

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

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

<sup>40</sup> Detainee interview notes of

<sup>41</sup> Detainee interview notes of

<sup>42</sup> Detainee interview notes of

<sup>43</sup> Detainee interview notes of

b6 b6  
b6 b6

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

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

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

### C. Grievance Procedures

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

<sup>44</sup> Detainee interview notes of [REDACTED].

<sup>45</sup> Detainee interview notes of [REDACTED].

<sup>46</sup> Interview notes of [REDACTED].

<sup>47</sup> Interview notes of [REDACTED].

<sup>48</sup> Detainee interview notes of [REDACTED].

<sup>49</sup> Detainee interview notes of [REDACTED].

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

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

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

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

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

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

---

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

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

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

<sup>56</sup> Detainee interview notes of [REDACTED], [REDACTED]

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

<sup>58</sup> Interview notes of [REDACTED], [REDACTED]

<sup>59</sup> Detainee interview notes of [REDACTED], [REDACTED]

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

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

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

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

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

---

<sup>60</sup> Detainee interview notes of

b6

b6

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

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

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

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

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

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

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

---

<sup>64</sup> Detainee interview notes of [REDACTED] [REDACTED] – the Detainee is a vegetarian for health, not religious, reasons.

<sup>65</sup> Interview notes of [REDACTED] [REDACTED]

<sup>66</sup> Detainee interview notes of [REDACTED] [REDACTED]

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

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

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

<sup>70</sup> Interview notes of [REDACTED], [REDACTED]

<sup>71</sup> Detainee interview notes of [REDACTED] [REDACTED] and [REDACTED] [REDACTED]

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

## F. Volunteer Work Programs

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

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

## H. Dormitories

---

<sup>72</sup> Detainee interview notes of [REDACTED] [REDACTED].  
<sup>73</sup> Detainee interview notes of [REDACTED] [REDACTED].  
<sup>74</sup> Detainee interview notes of [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED].  
<sup>75</sup> Detention Operations Manual, Detainee Services, Standard 17, Section I.  
<sup>76</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.A.  
<sup>77</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.G.  
<sup>78</sup> Interview notes of [REDACTED] [REDACTED].  
<sup>79</sup> Detainee interview notes of [REDACTED] [REDACTED].  
<sup>80</sup> Detainee interview notes of [REDACTED] [REDACTED].

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

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

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

---

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

<sup>82</sup> Detainee interview notes of [REDACTED].

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

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

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

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

<sup>87</sup> Detainee interview notes of [REDACTED].

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

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

## **V. Recommendations**

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

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

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

---

<sup>89</sup> Detainee interview notes of

<sup>90</sup> Detainee interview notes of

<sup>91</sup> Detainee interview notes of

b6

b6

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

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

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

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

## **VI. Conclusion**

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



b6

**Holland & Knight LLP  
131 South Dearborn Street  
Chicago, Illinois 60603-550  
6312.263.3600**

# 2190353\_v6-9/10/2004

Facility Name: Kenosha County Detention Facility; Kenosha, Wisconsin

Date of Tour: July 13, 2004

Tour Participants: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (Holland & Knight LLP)

ICE STANDARD PROVISION	TOUR OBSERVATION	SOURCE	ICE ESPONSE
<p>Access to Legal Materials (Detainee Services – Standard 1)</p> <ul style="list-style-type: none"> <li>▪ III.A – “The facility shall provide a law library in a designated room with sufficient space to facilitate detainees’ legal research and writing...It shall [be located] in a well-lit room, reasonably isolated from noisy areas.”</li> </ul>	<ul style="list-style-type: none"> <li>▪ There is no separate, private room designated for legal research and writing located within the Kenosha Facility (p. 6, 20-21, delegation)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Delegation observation</li> </ul>	
<p>Access to Legal Materials (Detainee Services – Standard 1)</p> <ul style="list-style-type: none"> <li>▪ III.C – “The law library shall contain the materials listed in Attachment A [to Standard 1]. INS shall provide an initial set of these materials.</li> </ul>	<ul style="list-style-type: none"> <li>▪ It does not appear that the Facility maintains either hard or electronic copies of the reading materials mandated by the Detention Standards (p. 6, lines 14-16, delegation)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Delegation observation</li> </ul>	
<p>Recreation (Detainee Services – Standard 13)</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>▪ Only male Detainees are allowed to use the outdoor recreation facility. Female Detainees are restricted to the gym (p. 13, lines 7-9, delegation/detainees)</li> <li>▪ The reason given for keeping female Detainees from the outdoor facility is that it is visible to the male Detainees. (p. 13, 10-11, staff)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Delegation observation &amp; detainee interviews</li> <li>▪ Facility staff</li> </ul>	
<p>Medical Services (Health Services – Standard 2)</p> <ul style="list-style-type: none"> <li>▪ I. – “All detainees shall have access to medical services that promote detainee health and general well-being.”</li> <li>▪ III.I – “In facilities that are not medically staffed 24 hours</li> </ul>	<ul style="list-style-type: none"> <li>▪ One Detainee claimed that he has not been administered his AIDS medicine (p. 14, l. 18)</li> <li>▪ One Detainee stated that he suffers from a hernia that has not been treated</li> </ul>	<ul style="list-style-type: none"> <li>▪ Detainee interviews</li> </ul>	

a day, medication may be distributed by detention officers who have received proper training by the health care provider... Distribution of medication by detention officers will be according to the specific instructions and procedures established by the health care provider.”	(p. 14, l. 19)		
--	----------------	--	--