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October 16, 2007

**MEMORANDUM**

**To:** John P. Torres, Director, Office of Detention and Removal, Immigration and Customs Enforcement  
**From:** American Bar Association Delegation to the Northwest Detention Center<sup>1</sup>  
**Copies to:** [REDACTED] b6, ABA Commission on Immigration  
**Subject:** Report on Observational Tour of the Northwest Detention Center, Tacoma, Washington

This memorandum summarizes and evaluates information gathered at the Northwest Detention Center (“NWDC” or the “Facility”) in Tacoma, Washington, during the delegation’s July 19, 2007 visit to the facility. The information was gathered via observation of the facility by the delegation, discussions with nine detainees, and discussions with NWDC and Immigration and Customs Enforcement (“ICE”) personnel.

**I. INTRODUCTION**

In November 2000, the Immigration and Naturalization Service (“INS”)<sup>2</sup> promulgated the “INS Detention Standards” to ensure the “safe, secure and humane treatment” of immigration detainees. The thirty-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 Detention Standards (the “Standards”) went into effect at ICE-operated detention facilities on January 1, 2001. ICE intended to phase in the Standards at all of its contract and IGSA facilities by December 31, 2002. The Standards constitute a floor rather than a ceiling for the treatment of immigration detainees. In other words, they are designed to establish the minimum requirements to which ICE must adhere in its facilities. Each Field Office or Officer-

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<sup>1</sup> The delegation was comprised of attorneys and summer associates from the Silicon Valley 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 ICE, a division of the newly-created Department of Homeland Security.

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

## II. OVERVIEW OF VISIT

### A. The Delegation's Visit, July 19, 2007

On Thursday, July 19, 2007, the members of our delegation met with several members of NWDC's staff and representatives from ICE at the Facility. Field Office Director [REDACTED], Assistant Field Office Director [REDACTED], GEO Warden [REDACTED], and ICE Supervising Detention Officer [REDACTED] led our delegation on a tour of the Facility and participated in post-tour follow-up discussions. The delegation also met with other NWDC personnel during the tour: Commander [REDACTED], M.D., Lieutenant [REDACTED], Officer [REDACTED], and Librarian [REDACTED]. The delegation appreciated the cooperation of the Facility staff; they were moderating during our tour of the Facility.

Our report is based on the discussions we had with these NWDC and ICE personnel, as well as observations of the Facility and discussions with nine immigration detainees.<sup>3</sup> In many instances, the detainees' reports were compatible with our observations and statements made by Facility personnel. In such cases, the delegation was able to more accurately determine whether NWDC policy and procedures successfully meet the Standards. In certain instances, however, 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. Also note that statements supported only by citations to the NWDC Detainee Handbook indicate instances where Facility personnel referred us to the Handbook in response to our questions.

### B. General Information About the Northwest Detention Center

NWDC houses federal immigration detainees, and is a contract detention facility managed by the GEO Group, Inc. ("GEO"). GEO is a private company and operates various facilities internationally. On the day of our visit, NWDC had a population of 1,012 inmates, but has 1,038 beds total.<sup>4</sup> NWDC houses approximately ninety percent men.<sup>5</sup> The Facility houses immigration detainees from many different countries, including Mexico, El Salvador, Guatemala, and Honduras; the majority of the detainee population—an estimated 85%—is from Mexico.<sup>6</sup>

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<sup>3</sup> The delegation met with the following detainees: [REDACTED] information but not of his name; [REDACTED] and [REDACTED]. The delegation interviewed eight of these detainees with the ninth: [REDACTED]

<sup>4</sup> Notes of delegation member [REDACTED] on conversation with Director [REDACTED]. Please note that during a delegation visit in July 2006, the NWDC had a total capacity of 800.

<sup>5</sup> Notes of delegation member [REDACTED] on conversation with Warden [REDACTED]

<sup>6</sup> Notes of delegation member [REDACTED] on conversation with Director [REDACTED] and Assistant Director [REDACTED]

NWDC housing is organized into four units, each of which contains three pods (except for one unit with two pods).<sup>7</sup> Two pods are double-bunked open rooms and one pod contains double occupancy cells.<sup>8</sup> Within the pods, detainees are housed on two floors.<sup>9</sup> The first floor beds open directly into a main room that contains a TV (and in some instances two TVs), telephones, and a general seating area.<sup>10</sup> Detainees have access to this area from 5:30 a.m. to 11:30 p.m. daily and eat all meals in the main area of the pod.<sup>11</sup> On the second floor, cells open onto a balcony that overlooks the main room.<sup>12</sup> Cells and common areas are cleaned weekly and the detainees may shower daily.<sup>13</sup>

The Facility is designed for keyless operation, and most of the security doors are electronically opened by the unit control officer located in a room overlooking the pod.<sup>14</sup> Each pod has an intercom through which detainees may communicate with the unit control officer.<sup>15</sup> The unit control officer is separated from the detainees by electric doors and shatter-proof glass.<sup>16</sup> Deputies and correctional officers moving throughout the Facility do not appear to have direct control over the opening of security doors since they use a telecom system to communicate with a controller who opens the doors.<sup>17</sup> During waking hours, an officer sits on the ground level inside each pod to supervise the detainees.<sup>18</sup>

### III. PREVIOUS ABA REPORT ON NWDC

A review of the 2006 ABA report on NWDC shows that problems persist with regard to Telephone Access, Access to Legal Materials, and Correspondence. The 2006 ABA report indicated that the telephone system would disconnect a call if too many digits were entered, which prevented detainees from reaching a legal service provider.<sup>19</sup> This problem has not been resolved. Detainees in 2006 and 2007 reported that they were unaware that indigent detainees are able to make free calls.<sup>20</sup> Detainees in 2006 reported that they did not receive messages from

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<sup>7</sup> Observed by all delegation members.

<sup>8</sup> Observed by all delegation members.

<sup>9</sup> Observed by all delegation members.

<sup>10</sup> Observed by all delegation members.

<sup>11</sup> Observed by all delegation members.

<sup>12</sup> Observed by all delegation members.

<sup>13</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6, b7c

<sup>14</sup> Notes of delegation member [REDACTED] on conversation with Assistant Director [REDACTED] b6, b7c observed by all delegation member

<sup>15</sup> Observed by all delegation members.

<sup>16</sup> Observed by all delegation members.

<sup>17</sup> Observed by all delegation members.

<sup>18</sup> Notes of delegation member [REDACTED] b6, on conversation with Assistant Director [REDACTED] b6, b7c

<sup>19</sup> 2006 ABA report on NWDC at 11. The ABA delegation previously visited NWDC on July 26, 2006.

<sup>20</sup> 2006 ABA report on NWDC at 10.

friends,<sup>21</sup> and in 2007 NWDC apparently still does not take messages other than from attorneys or in an emergency. In 2006 and in 2007, library time could conflict with recreation time.<sup>22</sup> In 2006 and in 2007, detainees reported that the Know Your Rights video was not regularly shown to all detainees.<sup>23</sup> In 2006 a detainee indicated that indigent detainees incurred a debt for sending mail;<sup>24</sup> in 2007 several detainees were either unaware that indigent detainees were entitled to free postage, or believed free postage was not provided even upon request. Additional problems are addressed in this report that were not raised in the 2006 report.

#### IV. THE DETENTION STANDARDS AT NWDC

##### A. Visitation

##### 1. Visitation by Attorneys

The Standards require that facilities permit legal visitation seven days per week.<sup>25</sup> Attorneys should have access to their clients for as much as eight hours per day during the week and four hours per day during the weekend.<sup>26</sup> The visits must be private and should not be interrupted for head counts.<sup>27</sup> Facilities should establish a procedure by which attorneys may call to determine whether a detainee is housed in a particular facility.<sup>28</sup> Detention centers should permit visits from attorneys, other legal representatives, legal assistants, and interpreters.<sup>29</sup> In contract detention facilities such as NWDC, detainees receiving legal visitation should only be pat-searched after the visit, unless the detainee is suspected of concealing contraband, in which case a strip search may be used.<sup>30</sup>

**NWDC substantially meets this section of the Standards, although signs give conflicting information regarding attorney hours of visitation.** Attorneys may visit the detainees seven days per week.<sup>31</sup> Interpreters may accompany attorneys during visits with detainees as long as the detainee's attorney has cleared the interpreter with NWDC prior to the visit (by providing their name and date of birth).<sup>32</sup>

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<sup>21</sup> 2006 ABA report on NWDC at 12.

<sup>22</sup> 2006 ABA report on NWDC at 14.

<sup>23</sup> 2006 ABA report on NWDC at 18.

<sup>24</sup> 2006 ABA report on NWDC at 19.

<sup>25</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

<sup>26</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

<sup>27</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.9.

<sup>28</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.6.

<sup>29</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.3.

<sup>30</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.11.

<sup>31</sup> NWDC Detainee Handbook, p. 12; notes of delegation member [REDACTED], on conversation with Assistant Director [REDACTED].

<sup>32</sup> Notes of delegation member [REDACTED], on conversation with Assistant Director [REDACTED].

The Facility has four attorney visitation rooms, and the doors to each room may be closed to ensure privacy, but there is a small window through which guards may observe the meeting.<sup>33</sup> All legal visits are contact, unless a non-contact visit is requested.<sup>34</sup> Non-contact visits occur in the public visitation area where detainees and visitors are separated by glass and speak via telephone.<sup>35</sup> Facility staff stated that detainees are subject to a pat-down search before and after a legal visit in the attorney visitation rooms, and that detainees are not subject to a strip search.<sup>36</sup> However, one detainee reported that he was subject to a strip search after a visit with a United States Attorney.<sup>37</sup>

Legal visits are not interrupted for head counts or meals.<sup>38</sup> If a detainee misses a meal due to an attorney visit, he or she is provided with a sack meal.<sup>39</sup>

The attorney visitation hours may be unclear to some attorneys because there are two conflicting visitation schedules posted at the entrance to the Facility.<sup>40</sup> One sign states that attorney visiting hours are from 6:00 a.m. until 11:00 p.m. seven days per week. A second sign (immediately next to previous sign) states that attorney visiting hours are from 9:00 a.m. until 8:00 p.m. on Mondays, Thursdays, and Fridays; from 9:00 a.m. until 5:00 p.m. on Tuesdays and Wednesdays; and from 8:00 a.m. until 3:00 p.m. on Saturdays, Sundays, and holidays.<sup>41</sup>

Attorneys may call NWDC to determine whether their client is being housed at the Facility.<sup>42</sup> They may also email Assistant Director [REDACTED] to request this information.<sup>43</sup>

## 2. Visitation by Family and Friends

To maintain detainee morale and family relationships, the Standards encourage visits by family and friends.<sup>44</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, both in written form and telephonically with a live voice or recording.<sup>45</sup> The visiting area is to be

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<sup>33</sup> Observations of delegation member [REDACTED] b6

<sup>34</sup> Notes of delegation member [REDACTED] b6 on conversation with Assistant Director [REDACTED] b6, b7c

<sup>35</sup> Observations of delegation member [REDACTED] b6

<sup>36</sup> Notes of delegation member [REDACTED] on conversation with a Facility visitation guard.

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

<sup>38</sup> Notes of delegation member [REDACTED] on conversation with Assistant Director [REDACTED] b6, b7c

<sup>39</sup> NWDC Detainee Handbook, p. 12.

<sup>40</sup> Observations of delegation members [REDACTED] b6 and [REDACTED] b6

<sup>41</sup> Observations of delegation members [REDACTED] b6 and [REDACTED] b6

<sup>42</sup> Notes of delegation member [REDACTED] b6, on conversation with Assistant Director [REDACTED] b6, b7c

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

<sup>44</sup> Detention Operations Manual, Detainee Services, Standard 17, Section I.

<sup>45</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.A & B.

“appropriately furnished and arranged, and as comfortable and pleasant as practicable.”<sup>46</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>47</sup> Visits should be at least thirty minutes long, and longer when possible.<sup>48</sup> If a facility does not provide for visits from minors, ICE should arrange for visits with children or stepchildren within the detainee’s first thirty days at the facility, with continuing monthly visits.<sup>49</sup>

**NWDC substantially meets this section of the Standards, although the visiting schedule is not available telephonically. In addition, there are conflicting visitation schedules posted, so visitors may not be aware of the hours of visitation, and one schedule does not provide for holiday visitation.** There are two conflicting visitation schedules posted at the entrance to the Facility. One sign states that the facility is “open” from 8:00 a.m. until 11:00 a.m. and from 1:00 p.m. until 3:30 p.m. on Thursdays, Fridays, Saturdays, Sundays, and Mondays.<sup>50</sup> These hours are consistent with the NWDC Detainee Handbook.<sup>51</sup> A second sign (immediately next to previous sign) states that “social visits” may occur from 1:00 p.m. until 8:00 p.m. on Mondays, Thursdays, and Fridays; and from 8:00 a.m. until 3:00 p.m. on Saturdays, Sundays, and holidays.<sup>52</sup> Both schedules provide that each detainee may receive visitors either on Saturday or Sunday. Only the second schedule provides that detainees may receive visitors on holidays. Neither schedule mentions whether detainees may receive visitors at other times if they are facing a particular hardship.<sup>53</sup>

The visiting schedule is publicly posted via ICE’s website, but it is not provided telephonically.<sup>54</sup> The NWDC Detainee Handbook states that visitors are limited to one session per day.<sup>55</sup> Visitors are allowed up to one hour, with a thirty-minute minimum dependent upon the number of visitors and staff availability.<sup>56</sup> More time may be authorized by the Shift Supervisor for family members traveling significant distances.<sup>57</sup> A maximum of two adults and two children may visit a detainee at any one time, although this regulation will be interpreted

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<sup>46</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.G.

<sup>47</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

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

<sup>49</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.2.

<sup>50</sup> Observations of delegation members [REDACTED] and [REDACTED].

<sup>51</sup> NWDC Detainee Handbook, p. 11.

<sup>52</sup> Observations of delegation members [REDACTED] and [REDACTED].

<sup>53</sup> Observations of delegation members [REDACTED] and [REDACTED].

<sup>54</sup> Notes of delegation member [REDACTED] on conversation with Assistant Director [REDACTED] observations of delegation member [REDACTED].

<sup>55</sup> NWDC Detainee Handbook, p. 11.

<sup>56</sup> NWDC Detainee Handbook, p. 11; notes of delegation member [REDACTED] on conversation with Assistant Director [REDACTED].

<sup>57</sup> NWDC Detainee Handbook, p. 11.

flexibly and subject to exceptions.<sup>58</sup> One detainee reported an instance when five family members came to visit but the entire visit only lasted twenty minutes before an officer cut it short.<sup>59</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>60</sup> In order to meet this requirement, facilities must provide at least one telephone for every twenty-five detainees.<sup>61</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>62</sup>

**NWDC meets this section of the Standard.** Each housing unit has its own set of phones.<sup>63</sup> There is approximately one phone per twenty detainees, with four or five phones in each of the twelve housing units or “pods.”<sup>64</sup> The telephones are turned on following the completion of sanitation duties each morning and remain on until lights out at 11:30 p.m.<sup>65</sup>

Telephone access rules are provided in the NWDC Detainee Handbook, which each detainee receives upon admittance.<sup>66</sup> Telephone access rules are also posted next to the phones in both English and Spanish.<sup>67</sup> However, as discussed below, detainees may not be aware of their right to make free calls under certain circumstances.

### **2. Direct Calls and Free Calls**

The Standards allow facilities to generally restrict calls to collect calls; 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>68</sup> The facility cannot require indigent detainees to pay for these types of calls if local, nor for non-local calls if there is a

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<sup>58</sup> NWDC Detainee Handbook, p. 11.

<sup>59</sup> Notes of delegation member [REDACTED], on conversation with detainee [REDACTED].

<sup>60</sup> Detention Operations Manual, Detainee Services, Standard 16, Sections I & III.A.

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

<sup>62</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.B.

<sup>63</sup> Observations of delegation member [REDACTED].

<sup>64</sup> Observations of delegation member [REDACTED].

<sup>65</sup> NWDC Detainee Handbook, p. 9.

<sup>66</sup> NWDC Detainee Handbook, p. 9; notes of delegation member [REDACTED], on conversation with Assistant Director [REDACTED].

<sup>67</sup> Observations of delegation member [REDACTED].

<sup>68</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

compelling need.<sup>69</sup> In addition, the facility “shall enable all detainees to make calls to the [ICE]-provided list of free legal service providers and consulates at no charge to the detainee or the receiving party.”<sup>70</sup>

**NWDC does not fully meet this section of the Standard; indigent detainees may not be aware of their right to make free calls in certain circumstances because the telephone access rules for indigent detainees are not posted or in the handbook. In addition, the delegation was unable to get through to one of the consulates listed. Finally, there is a maximum number of digits that may be entered on the telephones, so calls that involve navigating a touch-tone menu system are cut off.** Detainees are able to make direct calls to any number using a calling card, and they are generally able to make calls to legal service providers or to consulates at no charge.<sup>71</sup> There is a list of phone numbers for free legal service providers and consulates posted on the walls in the pods.<sup>72</sup> The delegation successfully called the Greater Tacoma field office of the Northwest Immigrant Rights Project (“NWIRP”) and the consulates of China and El Salvador using the numbers posted in the pods without charge.<sup>73</sup> The delegation was not able to make a call to the Jamaican consulate and instead received a “restricted number” message.<sup>74</sup> The Facility conducts daily checks to ensure that the phones in the pods are operational.<sup>75</sup> In addition, three hundred telephone numbers per week are checked to ensure that they work properly.<sup>76</sup>

The telephone system plays a prompt that requires the dialing party to choose between placing a collect call or placing a call using a calling card.<sup>77</sup> In order to make free calls to the legal service providers and consulates, the dialing party is required to choose the collect call option, although the receiving party is not charged.<sup>78</sup> This may be confusing to some detainees. Assistant Director [b6,b7c] stated that the Facility will be changing to a speed-dial system for free calls, which should simplify the process of making free calls.<sup>79</sup>

Indigent detainees are not required to pay for telephone calls to the local immigration court and the Board of Immigration Appeals, federal and local courts, government offices, and

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<sup>69</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>70</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>71</sup> Notes of delegation member [b6] on conversation with Assistant Director [b6,b7c]

<sup>72</sup> Observations of delegation members [b6] and [b6]

<sup>73</sup> Observations of delegation members [b6] and [b6]

<sup>74</sup> Observations of delegation member [b6]

<sup>75</sup> Notes of delegation member [b6] on conversation with Assistant Director [b6,b7c]

<sup>76</sup> Notes of delegation member [b6] on conversation with Assistant Director [b6,b7c]

<sup>77</sup> Observations of delegation members [b6] and [b6]

<sup>78</sup> Observations of delegation members [b6] and [b6]; notes of delegation member [b6] on conversation with Assistant Director [b6,b7c]

<sup>79</sup> Notes of delegation member [b6] on conversation with Assistant Director [b6,b7c]

family members in case of emergency.<sup>80</sup> In order to exercise this right, indigent detainees must file a request at least seventy-two hours in advance.<sup>81</sup> However, indigent detainees may not be aware of this rule because the telephone access rules contained in the NWDC Detainee Handbook and posted near the telephones do not address indigent detainees.<sup>82</sup> The NWDC Detainee Handbook states that detainees may complete a detainee request form to access an office telephone “[i]f [they] are unable to place calls from the telephone in [the] housing unit.”<sup>83</sup> Detainee [REDACTED] b6, b7c stated that indigent detainees are not aware of their rights to make free phone calls. Detainee [REDACTED] b6, b7c stated that detainees who cannot afford to purchase a calling card typically either earn money in the volunteer work program in order to purchase a calling card, or they borrow a calling card from another detainee.<sup>85</sup>

Detainee [REDACTED] b6, b7c also stated that there is a maximum number of digits that may be dialed on the telephones.<sup>86</sup> Therefore, he sometimes gets cut off when navigating touch-tone menu systems.<sup>87</sup>

### 3. Telephone Access to Legal Representatives

The Standards provide that the facility shall not restrict the number of calls a detainee places to his 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>88</sup> If time limits are necessary, they shall be no shorter than twenty minutes.<sup>89</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>90</sup>

**NWDC does not fully meet this section of the Standards; all calls including legal calls are monitored and non-private, unless a detainee requests an unmonitored or private call five days in advance, and detainees are not notified in the Handbook or postings that they are entitled to private legal calls.** All telephone calls are electronically monitored unless the detainee files a request form at least five days in advance, without any exceptions for calls to legal representatives.<sup>91</sup> Signs near the telephones in the pods state that calls will not be

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<sup>80</sup> Notes of delegation member [REDACTED] b6 on conversation with Officer [REDACTED] b6, b7c

<sup>81</sup> Notes of delegation member [REDACTED] b6 on conversation with Officer [REDACTED] b6, b7c

<sup>82</sup> Observations of delegation member [REDACTED] b6

<sup>83</sup> NWDC Detainee Handbook, p. 9.

<sup>84</sup> Notes of delegation member [REDACTED] b6, on conversation with detainee [REDACTED] b6, b7c

<sup>85</sup> Notes of delegation member [REDACTED] b6 on conversation with detainee [REDACTED] b6, b7c

<sup>86</sup> Notes of delegation member [REDACTED] b6 on conversation with detainee [REDACTED] b6, b7c

<sup>87</sup> Notes of delegation member [REDACTED] b6 on conversation with detainee [REDACTED] b6, b7c

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

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

<sup>90</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.J.

<sup>91</sup> Notes of delegation member [REDACTED] b6 on conversation with Officer [REDACTED] b6, b7c

monitored if it is to a legal representative.<sup>92</sup> However the detainee must request that the call not be monitored.<sup>93</sup> According to a sign posted near the telephones, the detainee must submit the name and phone number of the legal representative, and it will take five days to complete the request and to program the phones.<sup>94</sup> Similarly, telephone calls with legal representatives must be made on the phones in public areas unless the detainee files a request form at least five days in advance to use a phone that is not located in the public space of each pod.<sup>95</sup> The telephones are not private: they are located in the open areas, and there are no partitions.<sup>96</sup> Detainees may not be aware of the option to make private calls to legal representatives because the telephone access rules contained in the NWDC Detainee Handbook and posted near the telephones do not address this option.<sup>97</sup> The standard detainee request form also does not list phone calls to legal representatives as an option in the “Type of Request” section.<sup>98</sup>

#### 4. Incoming Calls and Messages

The Standards require that facilities take and deliver telephone messages to detainees as promptly as possible.<sup>99</sup> If the facility receives an emergency telephone call for a detainee, the Standards require that the facility obtain the caller’s name and number and permit the detainee to return the emergency call as soon as possible.<sup>100</sup>

**NWDC does not fully meet this section of the Standards. Telephone messages from attorneys and emergency telephone calls are delivered to detainees as soon as possible, but other messages are not recorded and delivered.**<sup>101</sup>

#### 5. Telephone Privileges in Special Management Unit

The Standards provide that detainees in the Special Management Unit (“SMU”) for disciplinary reasons shall be permitted to make direct and/or free calls, except under compelling security conditions.<sup>102</sup>

**NWDC meets this section of the Standards.** In accordance with the NWDC Detainee Handbook’s provision which grants the same rights to segregated detainees as to non-segregated

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<sup>92</sup> Observations of delegation member [REDACTED] b6

<sup>93</sup> Notes of delegation member [REDACTED] b6 on conversation with Officer [REDACTED] b6,b7c

<sup>94</sup> Observations of delegation member [REDACTED] b6

<sup>95</sup> Notes of delegation member [REDACTED] b6, on conversation with Assistant Director [REDACTED] b6,b7c

<sup>96</sup> Observations of delegation member [REDACTED] b6

<sup>97</sup> Observations of delegation member [REDACTED] b6

<sup>98</sup> NWDC Detainee Request Form (revised 1/11/07).

<sup>99</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

<sup>100</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

<sup>101</sup> Notes of delegation member [REDACTED] b6, on conversation with Officer [REDACTED] b6,b7c notes of delegation member [REDACTED] b6 on conversation with [REDACTED] b6

<sup>102</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

detainees, detainees placed in the SMU for disciplinary reasons are given the same telephone privileges as those in general housing.<sup>103</sup>

### C. Access to Library and Legal Material

All facilities “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>104</sup>

#### 1. Library Access

The Standards suggest that each facility shall have a flexible schedule for law library use that permits all detainees, regardless of housing or classification, to use the law library on a regular basis.<sup>105</sup> Each detainee shall be permitted to use the law library for a minimum of five hours per week.<sup>106</sup> In addition, special requests for additional time in the library shall be accommodated if possible, with priority given to detainees facing a court deadline.<sup>107</sup> The facility shall not force detainees to “forgo their minimal recreation time, as provided in the ‘Detainee Recreation’ standard, to use the law library.”<sup>108</sup> The facility’s library schedule should take into account those rules that “prohibit or regulate the intermingling of differently classified detainees.”<sup>109</sup>

**NWDC substantially meets this section of the Standards, although library time can conflict with recreation time, and one detainee stated that requests for additional time in the library were rarely, if ever, granted, even for those with an impending court date.** Law library use is permitted in one-hour increments, Monday through Friday, as follows: 7:50 a.m. to 8:50 a.m., 8:50 a.m. to 9:50 a.m., 9:50 a.m. to 10:50 a.m., 10:50 a.m. to 11:50 a.m., 1:50 p.m. to 2:50 p.m., and 2:50 p.m. to 3:50 p.m.<sup>110</sup> Detainees may use the law library for a maximum of one hour per day, five days per week.<sup>111</sup> Around thirty detainees utilize the law library daily.<sup>112</sup> To use the law library, a detainee must submit a request form one day in advance of the intended use.<sup>113</sup> Detainees facing court deadlines are given special priority in their requests for additional

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<sup>103</sup> Notes of Delegation member [REDACTED] b6 on conversation with Director [REDACTED] b6, b7c

<sup>104</sup> Detention Operations Manual, Detainee Services, Standard 1, Section I.

<sup>105</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>106</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>107</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>108</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

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

<sup>110</sup> NWDC Detainee Handbook, p.10; notes of delegation member [REDACTED] b6 on conversation with Librarian [REDACTED] b6

<sup>111</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>112</sup> Notes of delegation member [REDACTED] b6 on conversation with Librarian [REDACTED] b6

<sup>113</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

library time.<sup>114</sup> According to Librarian [REDACTED] a detainee facing a court deadline is afforded up to three hours of library use per day, [REDACTED] per week.<sup>115</sup> Although Librarian [REDACTED] explained that requests for this additional time (up to three hours per day) are generally granted,<sup>116</sup> one detainee stated that extensions, even in the face of an impending court date, were rarely, if ever, awarded.<sup>117</sup>

Although the standards proscribe forcing detainees to choose between library use and recreation time, Librarian [REDACTED] indicated that such a decision may be required of detainees, especially in situations where recreation time cannot be arranged.<sup>118</sup>

During the delegation's tour of the Facility, detainees from all three classification levels were present in the library.<sup>119</sup> Librarian [REDACTED] confirmed that differently classified detainees are permitted to intermingle in the library.

## 2. Library Conditions

The Standards require that the facility provide a law library with sufficient space to facilitate detainees' legal research and writing.<sup>121</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>122</sup>

**NWDC meets this section of the Standards.** NWDC provides one library, measuring approximately four hundred square feet.<sup>123</sup> The library is well-lit and sufficiently set back from the noisy hallway area so as to provide detainees a quiet workspace.<sup>124</sup> Although the facility offers seating for fifteen, the library seemed crowded with eight to ten detainees present during the delegation's visit.<sup>125</sup>

## 3. Materials Identified in the Detention Standards

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<sup>114</sup> NWDC Detainee Handbook, p.10.

<sup>115</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>116</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>117</sup> Notes of delegation member [REDACTED] on conversation with detainee A.

<sup>118</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>119</sup> Observation of delegation members [REDACTED] and [REDACTED]

<sup>120</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>121</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

<sup>122</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

<sup>123</sup> Observation of delegation member [REDACTED]

<sup>124</sup> Observation of delegation member [REDACTED]

<sup>125</sup> Observation of delegation member [REDACTED]

The Standards require that all facility law libraries contain the materials listed in Attachment A to the chapter on *Access to Legal Materials*.<sup>126</sup> These materials must be updated regularly, and information added in a timely manner regarding significant regulatory and statutory changes related to detention and deportation of aliens.<sup>127</sup> Damaged or stolen materials must be promptly replaced.<sup>128</sup> Illiterate or non-English speaking detainees without representation must be provided with more than access to a set of English-language law books.<sup>129</sup> The facility must establish procedures to meet this obligation, and if the methods adopted by the facility are unsuccessful in providing the detainee with sufficient assistance in using the law library and contacting pro bono legal organizations, the facility will contact ICE to determine appropriate further action.<sup>130</sup>

**NWDC does not fully meet this section of the Standards; non-English speakers have few resources available to them, and are not provided sufficient assistance in using the law library and contacting pro bono legal organizations.** NWDC's library contains all of the materials required by the Standards.<sup>131</sup> Although *Lawyer's Committee Handbook on Representing Asylum Applicants* was not found on the shelf, several detainees familiar with the library were confident that the book was always on the shelf and hence must have been in use by another detainee.<sup>132</sup> In addition, the resources stocked in the library were up-to-date in accordance with the specifications of Attachment A.<sup>133</sup> According to Librarian [REDACTED] library materials are checked and updated on a weekly basis.<sup>134</sup> This process involves a comparison of the books on hand with those specified in Attachment A.<sup>135</sup> The library also provides detainees with access to Lexis-Nexis on CD-ROM;<sup>136</sup> however, the CD-ROM contains a limited database and does not link to all of the cases it cites.<sup>137</sup> Items which are damaged or stolen are reported to ICE, which provides replacement material to the Facility.<sup>138</sup> The length of

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

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

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

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

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

<sup>131</sup> Observations of delegation members [REDACTED] and [REDACTED].

<sup>132</sup> Observations of delegation member [REDACTED] notes of delegation members on conversation with detainees using the library.

<sup>133</sup> Observations of delegation members [REDACTED] and [REDACTED].

<sup>134</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED].

<sup>135</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED].

<sup>136</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED] observation of delegation member [REDACTED].

<sup>137</sup> Observations of delegation member [REDACTED].

<sup>138</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED].

this process is a function of the availability of the lost or damaged material.<sup>139</sup> Librarian [REDACTED] noted that additional materials can be requested through ICE.<sup>140</sup>

Non-English-language resources were notably lacking from the Facility,<sup>141</sup> and no clear process exists to provide non-English speakers research assistance.<sup>142</sup> In particular, one detainee indicated that a lack of Spanish resources, coupled with the lack of assistance available for Spanish speakers in the library, made legal research for Spanish speakers an almost impossible task.<sup>143</sup> Another detainee noted that the only way non-English speaking detainees are able to get the assistance they need is through other detainees in their pods.<sup>144</sup>

#### 4. Library Equipment and Supplies

The Standards require that the law library 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>145</sup> Staff must inspect at least weekly to ensure equipment is in working order and to stock sufficient supplies.<sup>146</sup>

**NWDC meets this section of the Standards.** NWDC provides five computers and one typewriter, all of which were in working order.<sup>147</sup> The library also offers free paper and pencils.<sup>148</sup> Detainees are able to save their work on diskettes,<sup>149</sup> which are kept behind the desk of the law librarian.<sup>150</sup>

#### 5. Photocopies

The Standards provide that each facility shall ensure that detainees can obtain photocopies of legal materials, when such copies are reasonable and necessary for legal proceedings involving the detainee.<sup>151</sup> Enough copies must be provided so that a detainee can

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<sup>139</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>140</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>141</sup> Observation of delegation members [REDACTED] and [REDACTED]

<sup>142</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED] and Assistant Director [REDACTED]

<sup>143</sup> Notes of delegation member [REDACTED] on conversation with detainee A.

<sup>144</sup> Notes of delegation member [REDACTED] on conversation with detainee [REDACTED]

<sup>145</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

<sup>146</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

<sup>147</sup> Observation of delegation member [REDACTED]

<sup>148</sup> Observation of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>149</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>150</sup> Notes of delegation member [REDACTED] on conversation with Librarian [REDACTED]

<sup>151</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

fulfill court procedural rules and retain a copy for his records.<sup>152</sup> Facility personnel may not read a document that on its face is clearly related to a legal proceeding involving the detainee.<sup>153</sup>

**It is unclear whether NWDC fully meets this section of the Standards, in light of one detainee's complaints of delays in receiving photocopies.** Although the library does not itself contain a photocopier,<sup>154</sup> the Facility provides photocopying services upon request.<sup>155</sup> Photocopies are provided to detainees at no charge if the documents being copied pertain to legal proceedings involving the detainee.<sup>156</sup> Documents to be copied are submitted to the law librarian, and the copies are distributed to the detainees within seventy-two hours.<sup>157</sup> However, Detainee [b6, b7c] reported an instance when he did not receive his photocopies for two weeks.<sup>158</sup>

## 6. Assistance From Other Detainees

The Standards require that each facility permit detainees to assist other detainees in researching and preparing legal documents upon request, except when such assistance poses a security risk.<sup>159</sup>

**NWDC meets this section of the Standards.** Librarian [b6] stated that collaboration between detainees is permitted,<sup>160</sup> and the delegation observed such collaboration during the library tour.<sup>161</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 immigration law.<sup>162</sup> Informational posters are to be prominently displayed in the housing units at least forty-eight hours in advance of a scheduled presentation.<sup>163</sup> While the presentations are open to all detainees, the facility can limit the number of detainees at a single session.<sup>164</sup> In

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<sup>152</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>153</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>154</sup> Observation of delegation member [b6]

<sup>155</sup> Notes of delegation member [b6], on conversation with Librarian [b6]

<sup>156</sup> Notes of delegation member [b6], on conversation with Librarian [b6]

<sup>157</sup> Notes of delegation member [b6], on conversation with Librarian [b6]

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

<sup>159</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.Q.

<sup>160</sup> Notes of delegation member [b6] on conversation with Librarian [b6]

<sup>161</sup> Observation of delegation member [b6]

<sup>162</sup> Detention Operations Manual, Detainee Services, Standard 9, Section I.

<sup>163</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

<sup>164</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

addition, detainees shall have regular opportunities to view an ICE-approved videotaped presentation on legal rights.<sup>165</sup>

**NWDC substantially meets this section of the Standards; however, it is unclear whether the Know Your Rights video is shown on a regular basis.** While the NWDC Detainee Handbook provides that “Group legal rights presentations are presented weekly,”<sup>166</sup> Director [b6, b7c] said that presentations were made by NWIRP on an almost weekly basis.<sup>167</sup> NWIRP [b6, b7c] is to be the sole organization to make group legal rights presentation at the Facility.<sup>168</sup> If additional organizations expressed interest in presenting, they would be able to do so, “subject to the legal department verifying that the organizations are *bona fide* legal organizations.”<sup>169</sup> Presentations are held in the Facility’s recreation space, and are open to all detainees.<sup>170</sup> For detainees in segregation, special arrangements are made for presentations to be given in their respective pods.<sup>171</sup> Presenters from NWIRP routinely meet with detainees in small groups after their presentations,<sup>172</sup> and this practice is permitted by the Facility.<sup>173</sup> Although NWDC does not provide translation services for visiting presenters, NWIRP employees are generally conversant in Spanish and, if not, they provide their own interpreter.<sup>174</sup> One detainee has attended several presentations conducted in Spanish.<sup>175</sup>

The “Know Your Rights” video created by the Florence Project is aired on televisions inside the Facility.<sup>176</sup> Although Director [b6, b7c] informed the delegation that the video was shown in English and Spanish every morning,<sup>177</sup> one detainee reported never having seen the video in its entirety,<sup>178</sup> while others stated that it was shown irregularly,<sup>179</sup> and more frequently in some pods than others.<sup>180</sup>

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<sup>165</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.I.

<sup>166</sup> NWDC Detainee Handbook, p.13.

<sup>167</sup> Notes of delegation member [b6, b7c] on conversation with Director [b6, b7c]

<sup>168</sup> Notes of delegation member [b6, b7c] on conversation with Director [b6, b7c]

<sup>169</sup> Notes of delegation member [b6, b7c] on conversation with Director [b6, b7c]

<sup>170</sup> Notes of delegation member [b6, b7c] on conversation with Director [b6, b7c]

<sup>171</sup> Notes of delegation member [b6, b7c] on conversation with Director [b6, b7c]

<sup>172</sup> Notes of delegation member [b6, b7c] on conversation with [b6, b7c] th detainee [b6, b7c] notes of delegation member [b6, b7c] on conversation with [b6, b7c] detainee [b6, b7c]

<sup>173</sup> Notes of delegation member [b6, b7c] on conversation with Director [b6, b7c]

<sup>174</sup> Notes of delegation member [b6, b7c] on conversation with Director [b6, b7c]

<sup>175</sup> Notes of delegation member [b6, b7c] on conversation with detainee A.

<sup>176</sup> Notes of delegation member [b6, b7c] on conversation with Director [b6, b7c]

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

<sup>178</sup> Notes of delegation member [b6, b7c] on conversation with detainee [b6, b7c]

<sup>179</sup> Notes of delegation member [b6, b7c] on conversation with detainees A and [b6, b7c]

<sup>180</sup> Notes of delegation member [b6, b7c] on conversation with detainee [b6, b7c]

### **E. Correspondence and Other Mail**

The Standards require that detainees be allowed to send and receive correspondence in a timely manner, subject to limitations required for safety, security, and orderly operation of the facility.<sup>181</sup> General correspondence shall normally be opened and inspected for contraband in the presence of the detainee, but may be opened and read outside the presence of the detainee if security reasons exist for doing so.<sup>182</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>183</sup> Incoming special correspondence can be inspected for contraband only in the presence of the detainee, and it can never be read or copied.<sup>184</sup> Outgoing special correspondence cannot be opened, inspected, or read.<sup>185</sup> The Standards also require that facilities provide indigent detainees with free envelopes and stamps for mail related to a legal matter, including correspondence to a legal representative, potential representative, or any court.<sup>186</sup> Finally, the Standards require that facilities notify detainees of specific information regarding correspondence policies.<sup>187</sup>

**NWDC does not fully meet this section of the Standards; outgoing special correspondence is inspected. In addition, it is unclear whether indigent detainees receive free postage.** NWDC’s policies regarding correspondence are outlined in the NWDC Detainee Handbook and appear to be well-known among all of the detainees whom the delegation interviewed.<sup>188</sup> Incoming general and special correspondence is opened in the presence of the recipient detainee and inspected for contraband; neither type of mail is read.<sup>189</sup> The Facility inspects outgoing correspondence, including legal correspondence: detainees are required to open their correspondence and then reseal it before shipment.<sup>190</sup> NWDC does not permit detainees to send or receive packages unless they are pre-approved by the administration.<sup>191</sup>

According to the detainee handbook, indigent detainees “may send up to three personal letters per week, weighing no more than two ounces each, at no cost” and “a reasonable number of special correspondence may also be sent out at no cost.”<sup>192</sup> Director [b6, b7c] indicated that a

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<sup>181</sup> Detention Operations Manual, Detainee Services, Standard 3, Section I.

<sup>182</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.

<sup>183</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B., E, & F.

<sup>184</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.

<sup>185</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & F.

<sup>186</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.I.

<sup>187</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B.

<sup>188</sup> NWDC Detainee Handbook, p. 15; notes of delegation, on conversations with detainees [b6, b7c] and [b6, b7c]

<sup>189</sup> NWDC Detainee Handbook, p.15; notes of delegation member [b6] on conversation with Officer [b6, b7c]

<sup>190</sup> Notes of delegation member [b6] on conversation with Officer [b6, b7c]

<sup>191</sup> NWDC Detainee Handbook, p.15.

<sup>192</sup> NWDC Detainee Handbook, p.15.

detainee could send up to five pieces of special correspondence per week.<sup>193</sup> However, several of the detainees interviewed by the delegation were either unaware that indigent detainees were entitled to free postage,<sup>194</sup> or believed that the Facility did not provide free postage to indigent detainees even when it was requested.<sup>195</sup> Although checks sent to a detainee are returned to sender, the Facility permits the detainees to receive cash, which is added to the detainee's account.<sup>196</sup> One detainee experienced routine delays in having the money that is sent to him added to his account.<sup>197</sup>

Detainees generally indicated that delivery of incoming mail is free of delay,<sup>198</sup> and that the Facility never limits the amount of mail that a detainee can send or receive at his own expense.<sup>199</sup> Detainee responses on the subject of whether or not incoming and outgoing mail was inspected varied widely. While some detainees were under the impression that no outgoing mail is inspected, and that only incoming general correspondence is inspected,<sup>200</sup> others believed that all incoming mail is inspected.<sup>201</sup>

#### **F. 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>202</sup> Every detainee should receive a copy of the handbook upon admission to the facility.<sup>203</sup> The handbook will be written in English and translated into Spanish and other prevalent languages as appropriate.<sup>204</sup> The handbook must include visitation hours and rules.<sup>205</sup> The handbook must notify detainees of the facility correspondence policy.<sup>206</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>207</sup> The handbook must provide notice of the facility's rules of

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<sup>193</sup> Notes of delegation member [REDACTED] b6, on conversation with Director [REDACTED] b6, b7c

<sup>194</sup> Notes of delegation member [REDACTED] b6, on conversation with detainee [REDACTED] b6, b7c; notes of delegation member [REDACTED] b6, on conversation with detainee [REDACTED] b6, b7c

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

<sup>196</sup> Notes of delegation member [REDACTED] b6, on conversation with Officer [REDACTED] b6, b7c

<sup>197</sup> Notes of delegation member [REDACTED] b6, on conversation with detainee A.

<sup>198</sup> Notes of delegation member [REDACTED] b6, on conversation with detainee [REDACTED] b6, b7c

<sup>199</sup> Notes of delegation member [REDACTED] b6, on conversation with detainee [REDACTED] b6, b7c

<sup>200</sup> Notes of delegation member [REDACTED] b6, on conversation with detainee [REDACTED] b6, b7c

<sup>201</sup> Notes of delegation member [REDACTED] b6, on conversation with detainee [REDACTED] b6, b7c

<sup>202</sup> Detention Operations Manual, Detainee Services, Standard 6, Section I.

<sup>203</sup> Detention Operations Manual, Detainee Services, Standard 6, Section I.

<sup>204</sup> Detention Operations Manual, Detainee Services, Standard 6, Section III.E.

<sup>205</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.B.

<sup>206</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

<sup>207</sup> Detention Operations Manual, Detainee Services, Standard 5, Section III.G.

conduct and the sanctions imposed.<sup>208</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>209</sup> The handbook must also state that detainees have the opportunity to submit written questions, requests, or concerns to ICE staff and the procedures for doing so.<sup>210</sup> The Officer in Charge will provide a copy of the handbook to every staff member who has contact with detainees.<sup>211</sup>

**NWDC meets this section of the Standards.** The NWDC Detainee Handbook is available in both English and Spanish.<sup>212</sup> The NWDC Detainee Handbook includes proper mention of visitation hours and rules,<sup>213</sup> correspondence policies,<sup>214</sup> formal and informal grievance processes,<sup>215</sup> rules of conduct and sanctions,<sup>216</sup> and detainee rights and responsibilities.<sup>217</sup> All but one of the detainees interviewed by the delegation received a NWDC Detainee Handbook upon admission and were aware of its existence in English and Spanish translation.<sup>218</sup>

### **G. Recreation**

The Standards require that all detainees have access to recreational programs and activities, under conditions of security and safety.<sup>219</sup> Detainees should be housed in facilities with outdoor recreation.<sup>220</sup> Detainees should have access to “fixed and movable equipment,” including opportunities for cardiovascular exercise, and games and television in dayrooms.<sup>221</sup> Under no circumstances will a facility require detainees to forego law library privileges for recreation privileges.<sup>222</sup>

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<sup>208</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

<sup>209</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

<sup>210</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

<sup>211</sup> Detention Operations Manual, Detainee Services, Standard 6, Section III.H.

<sup>212</sup> Observations of delegation member [REDACTED] b6

<sup>213</sup> NWDC Detainee Handbook, p. 11.

<sup>214</sup> NWDC Detainee Handbook, pp. 15-16.

<sup>215</sup> NWDC Detainee Handbook, p. 19.

<sup>216</sup> NWDC Detainee Handbook, pp. 16-19.

<sup>217</sup> NWDC Detainee Handbook, pp. 24-25.

<sup>218</sup> Notes of delegation, on conversations with detainees [REDACTED] b6, b7c

[REDACTED] b6, b7c and [REDACTED] b6, b7c notes of delegation m [REDACTED] b6 [REDACTED] b6, b7c

<sup>219</sup> Detention Operations Manual, Detainee Services, Standard 13, Section I.

<sup>220</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>221</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.G.

<sup>222</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

**NWDC meets this section of the Standards.** NWDC provides two types of outdoor recreation. Each housing unit is linked to a small outdoor recreation area, which is available to detainees from 8:00 a.m. to 8:00 p.m. each day.<sup>223</sup> Detainees are also given the opportunity to use the outside recreation yard for approximately one hour, two or three times per week.<sup>224</sup> There are chin-up and dip bars available in the outside recreation yard, as well as basketballs and basketball hoops.<sup>225</sup>

NWDC also provides indoor recreation in the housing unit dayrooms. There are three televisions available in each dayroom, and detainees may listen to the audio via a headset.<sup>226</sup> Some television programs are in English, and some are in Spanish.<sup>227</sup> Detainees may also play checkers, cards, and dominoes in the dayrooms.<sup>228</sup> The dayrooms do not provide equipment for muscular or cardiovascular exercise.<sup>229</sup>

#### **H. Access to Medical Care**

The Standards require that all detainees have access to medical services that promote detainee health and general well-being.<sup>230</sup> Each facility is required to provide detainees with an initial medical screening, in addition to regularly scheduled times, known as sick call, when medical personnel are available to see detainees who have requested medical services.<sup>231</sup> For a facility of over 200 detainees, there must be sick call five days per week.<sup>232</sup> Facilities must also have procedures in place to provide emergency medical care for detainees who require it.<sup>233</sup> With respect to emergency care, the Standards state that in a situation where 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>234</sup> If a detainee is diagnosed as having a medical or psychiatric condition requiring special attention (*e.g.*, special diet), the medical care provider is required to notify the Officer in Charge in writing.<sup>235</sup>

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<sup>223</sup> Observations of delegation member [REDACTED] NWDC Detainee Handbook, p. 20.

<sup>224</sup> Notes of delegation member [REDACTED] on conversation with detainee [REDACTED] notes of delegation member [REDACTED] on conversation with [REDACTED]

<sup>225</sup> Observations of delegation members [REDACTED] and [REDACTED]

<sup>226</sup> Observations of delegation member [REDACTED]

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

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

<sup>229</sup> Observations of delegation member [REDACTED]

<sup>230</sup> Detention Operations Manual, Health Services, Standard 2, Section I.

<sup>231</sup> Detention Operations Manual, Health Services, Standard 2, Section III.A and F.

<sup>232</sup> Detention Operations Manual, Health Services, Standard 2, Section I.

<sup>233</sup> Detention Operations Manual, Health Services, Standard 2, Section III.A, D, and G.

<sup>234</sup> Detention Operations Manual, Health Services, Standard 2, Section III.H.

<sup>235</sup> Detention Operations Manual, Health Services, Standard 2, Section III.J.

**It is unclear if NWDC meets this section of the Standards; the delegation received several reports of inadequate medical attention from detainees.** All detainees at NWDC are screened for medical issues upon their initial processing, which takes place on the day they arrive at the facility.<sup>236</sup> Each detainee is questioned regarding prior health history, current health, medical history, and tuberculosis (“TB”).<sup>237</sup> Every detainee is also given a chest exam to test for TB.<sup>238</sup> If a detainee refuses the chest exam, a skin test will be performed.<sup>239</sup> If health concerns are raised during this screening process, the individual is referred to a physician for additional tests beyond the initial screening.<sup>240</sup> The facility only tests for HIV if it is brought to the attention of medical personnel.<sup>241</sup> Those who appear to have potential mental health issues, including suicidal tendencies, may be kept separately and monitored closely by the staff.<sup>242</sup> Dr. [REDACTED] noted that there is a vacant mental health position, and he has assumed mental health until the position is filled.<sup>243</sup> The facility also performs a comprehensive medical examination within 14 days of admittance.<sup>244</sup>

NWDC conducts sick call for men Monday through Friday at 6:00 a.m., and detainees participate by lining up in the hallway during the appropriate time.<sup>245</sup> Women must fill out a Request for Medical Care form in order to access facility medical staff for sick call. Only certain medical procedures will be performed, often times based on the estimated length of stay of the detainee.<sup>246</sup> There is no formal communication between the health staff and ICE, and health staff does not have access to ICE databases, thus information regarding the estimated length of stay of a detainee is discussed informally.<sup>247</sup>

Some detainees complained of not receiving adequate medical treatment. One detainee had a foot injury, which was aggravated by the shoes supplied to him by the facility.<sup>248</sup> Medical staff told the detainee to get larger shoes, but as the detainee is indigent, this option was not possible.<sup>249</sup> Another detainee reported that he is never given advance notice of his medical

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<sup>236</sup> Notes of delegation member [REDACTED], on conversation with Dr. [REDACTED] and Officer [REDACTED].

<sup>237</sup> Notes of delegation member [REDACTED], on conversation with Dr. [REDACTED].

<sup>238</sup> Notes of delegation member [REDACTED], on conversation with Dr. [REDACTED].

<sup>239</sup> Notes of delegation member [REDACTED], on conversation with Dr. [REDACTED].

<sup>240</sup> Notes of delegation member [REDACTED], on conversation with Dr. [REDACTED].

<sup>241</sup> Notes of delegation member [REDACTED], on conversation with Dr. [REDACTED].

<sup>242</sup> Notes of delegation member [REDACTED], on conversation with Dr. [REDACTED].

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

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

<sup>245</sup> NWDC Detainee Handbook, p. 7; notes of delegation member [REDACTED], on conversation with Dr. [REDACTED].

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

<sup>247</sup> Notes of delegation member [REDACTED], on conversation with Dr. [REDACTED] and Assistant Director [REDACTED].

<sup>248</sup> Notes of delegation member [REDACTED], on conversation with detainee [REDACTED].

<sup>249</sup> Notes of delegation member [REDACTED], on conversation with detainee [REDACTED].

appointments.<sup>250</sup> A third detainee has a respiratory problem that he feels needs urgent attention, but his requests for medical care have been ignored.<sup>251</sup>

### **I. Hunger Strikes**

The Standards require that all facilities follow accepted standards of care in the medical and administrative management of hunger-striking detainees.<sup>252</sup> Facilities must do everything within their means to monitor and protect the health and welfare of the hunger-striking detainee and must make every effort to obtain the hunger striker's informed consent for treatment.<sup>253</sup>

**NWDC meets this section of the Standards.** If a detainee declares a hunger strike, the medical staff then assesses the mental state of the patient, and regularly monitors the patient, including his or her food and liquid intake, weight, and vital signs.<sup>254</sup> Often times, a detainee on hunger strike will be segregated to more easily monitor his health and to prevent other detainees from also going on hunger strike.<sup>255</sup> When necessary, the Facility can obtain a court order to force-feed a detainee on hunger strike.<sup>256</sup>

### **J. Detainee Classification System**

The Standards require that detention facilities use a classification system and physically separate detainees depending on classification category.<sup>257</sup> Detainees must be assigned to the least restrictive housing unit consistent with facility safety and security.<sup>258</sup> A detainee's classification is to be determined on "objective" criteria, including criminal offenses, escape attempts, institutional disciplinary history, violent incidents, etc.<sup>259</sup> Opinions, unconfirmed and unverified information, and physical characteristics and appearance are not to be taken into account.<sup>260</sup> Classification is required in order to separate detainees with no or minimal criminal records from inmates with serious criminal records.<sup>261</sup> Detainees with a history of assaultive or combative behavior are not to be housed with non-violent detainees.<sup>262</sup>

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<sup>250</sup> Notes of delegation member [REDACTED] on conversation with detainee A.

<sup>251</sup> Notes of delegation member [REDACTED] on conversation with detainee [REDACTED].

<sup>252</sup> Detention Operations Manual, Health Services, Standard 1, Section I.

<sup>253</sup> Detention Operations Manual, Health Services, Standard 1, Section I.

<sup>254</sup> Notes of delegation member [REDACTED] on conversation with Dr. [REDACTED].

<sup>255</sup> Notes of delegation member [REDACTED] on conversation with Dr. [REDACTED].

<sup>256</sup> Notes of delegation member [REDACTED] on conversation with Dr. [REDACTED].

<sup>257</sup> Detention Operations Manual, Detainee Services, Standard 4, Section I.

<sup>258</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.F.

<sup>259</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

<sup>260</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

<sup>261</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.A & E.

<sup>262</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.F.

All facility classification systems shall allow classification levels to be redetermined and include procedures by which new arrivals can appeal their classification levels.<sup>263</sup> Finally, the detainee handbook's section on classification must include (1) an explanation of the classification levels, with the conditions and restrictions applicable to each, and (2) the procedures by which a detainee may appeal his classification.<sup>264</sup>

**NWDC meets this section of the Standard.** Detainees are classified within thirty minutes of their arrival at NWDC, before being admitted into the general population.<sup>265</sup> This quick classification is consistent with the Facility's broader "12-hour rule" which aims to place detainees in their pods within half a day of their arrival.<sup>266</sup> According to the NWDC Detainee Handbook, classification is based on "[m]edical and criminal history information provided by the committing officer."<sup>267</sup> According to Lieutenant [REDACTED], detainees are classified solely according to information on Form 213 provided by [REDACTED].<sup>268</sup> Two detainees confirmed that their classification upon arrival was immediate.<sup>269</sup>

Detainees are classified into one of three classification levels.<sup>270</sup> Level one detainees are the lowest risk detainees in the Facility.<sup>271</sup> Level one may include detainees with minor criminal records and nonviolent felonies, but it does not include detainees with felony convictions that include an act of physical violence or aggravated felony convictions.<sup>272</sup> Level three detainees are the highest risk detainees in the Facility.<sup>273</sup> Level three includes detainees "reclassified from levels one and two due to institutional incidents or changes in classification information."<sup>274</sup> Level three detainees require medium- to maximum-security housing, and they are "always monitored and escorted."<sup>275</sup> Level two includes detainees who fall between levels one and three.<sup>276</sup> Detainees for whom there is insufficient information on Form 213 for classification purposes are assigned level one classification.<sup>277</sup> Gay, lesbian, and transgender detainees are not

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<sup>263</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.G & H.

<sup>264</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.I.

<sup>265</sup> Notes of delegation member [REDACTED] on conversation with Lieutenant [REDACTED].

<sup>266</sup> Notes of delegation member [REDACTED] on conversation with Lieutenant [REDACTED].

<sup>267</sup> NWDC Detainee Handbook, p. 5.

<sup>268</sup> Notes of delegation member [REDACTED] on conversation with Lieutenant [REDACTED].

<sup>269</sup> Notes of delegation member [REDACTED], on conversation with detainee [REDACTED]; notes of delegation member [REDACTED] on conversation with detainee [REDACTED].

<sup>270</sup> NWDC Detainee Handbook, p.5.

<sup>271</sup> Notes of delegation member [REDACTED] on conversation with Director [REDACTED].

<sup>272</sup> NWDC Detainee Handbook, p. 5.

<sup>273</sup> Notes of delegation member [REDACTED], on conversation with Director [REDACTED].

<sup>274</sup> NWDC Detainee Handbook, p. 5.

<sup>275</sup> NWDC Detainee Handbook, p. 5.

<sup>276</sup> Notes of delegation member [REDACTED], on conversation with Director [REDACTED].

<sup>277</sup> Notes of delegation member [REDACTED], on conversation with Lieutenant [REDACTED].

treated differently in the classification process, although they may at their discretion request administrative segregation for safety reasons.<sup>278</sup> Director [b6, b7c] recounted an incident in which the Facility segregated a transgender detainee because of t [redacted] of violence against her.<sup>279</sup>

Detainees are outfitted in uniforms that correspond to their classification level. Level one detainees wear blue uniforms, level two detainees wear orange uniforms, and level three detainees wear red uniforms.<sup>280</sup> Although detainees from levels one and three are not housed together and are generally not left to commingle without guard supervision,<sup>281</sup> the delegation observed ready commingling of all three classification levels in the law library without guard supervision.<sup>282</sup> Assistant Director [b6, b7c] stated that at the time of the delegation's visit, the Facility housed approximately 100 "red" detainees and between 250 and 260 "orange" detainees, with the remainder being "blue."<sup>283</sup> Although one detainee was unaware of the rules governing the interactions between the different classification levels,<sup>284</sup> the majority of detainees interviewed by the delegation were able to confirm the classification system.<sup>285</sup> One detainee's understanding of the classification system was based on the fact that, as a "blue" detainee, she was not housed with "red" detainees.<sup>286</sup>

Detainee classifications are periodically reassessed, and classification levels may be adjusted based on institutional behavior, institutional incidents, or changes in cla information.<sup>287</sup> All initial classifications are reviewed by Classification Officer [b6, b7c], either on the day of the classification or the following day.<sup>288</sup> The NWDC Detainee Handbook states that "[t]he first reassessment will be completed forty-five to sixty days after the date of the original assessment. Subsequent reassessments will be completed every sixty to ninety days thereafter, and before any release from administrative or disciplinary segregation."<sup>289</sup> None of the detainees interviewed by the delegation had been reclassified.

According to the NWDC Detainee Handbook, detainees may appeal their classification by submitting a Detainee Acknowledgement of (Classification) Decision / Appeal form or a

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<sup>278</sup> Notes of delegation member [b6] on conversation with Director [b6, b7c]

<sup>279</sup> Notes of delegation member [b6] on conversation with Director [b6, b7c]

<sup>280</sup> NWDC Detainee Handbook, p.5.

<sup>281</sup> Notes of delegation member [b6] on conversation with Warden [b6, b7c]

<sup>282</sup> Delegation observations.

<sup>283</sup> Notes of delegation member [b6] on conversation with Assistant Director [b6, b7c]

<sup>284</sup> Notes of delegation member [b6] on conversation with detainee [b6, b7c]

<sup>285</sup> Notes of delegation member [b6] on conversation with detainees [b6], [b6] and A; notes of delegation member [Responsive, Duplicate] on conversation with detainee [b6, b7c], [b6, b7c]

<sup>286</sup> Notes of delegation member [b6] on conversation with detainee [b6, b7c]

<sup>287</sup> NWDC Detainee Handbook, p. 5; notes of delegation member [b6] on conversation with Assistant Director [b6, b7c]

<sup>288</sup> Notes of delegation member [b6] on conversation with Lieutenant [b6, b7c]

<sup>289</sup> NWDC Detainee Handbook, p. 5.

Request Form addressed to the Classification Officer.<sup>290</sup> The NWDC Detainee Handbook states that “[h]e/she will review the request and make a recommendation to the Associate Warden for a decision.”<sup>291</sup> The Associate Warden’s decision may be appealed to the Warden via the same process.<sup>292</sup> In practice, however, appeals for classification are reviewed by Officer [REDACTED] b6, b7c even if she was responsible for the initial classification assignment.<sup>293</sup> If a detainee persists in appealing his or her classification, “the Warden might intervene and review the appeal.”<sup>294</sup> Although no detainees interviewed by the delegation had appealed their own classifications, one detainee knew of detainees who had successfully appealed their classification.<sup>295</sup> Another detainee believed that appeals for reclassification could only be submitted once every six months.<sup>296</sup>

### **K. Detainee Grievance Procedures**

The Standards require that every facility develop and apply standard procedures for handling detainee grievances and encourage the facility to initially seek to resolve grievances informally before having to engage in a more formalized procedure.<sup>297</sup> Translating assistance for both formal and informal grievances must be provided upon request.<sup>298</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>299</sup> All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.<sup>300</sup>

**NWDC appears not to fully meet this section of the Standards; one detainee stated he did not receive a written response to a formal grievance.** When filing a grievance, detainees must choose whether or not to file a formal or informal grievance.<sup>301</sup> There are five levels of grievance procedures: Informal, Formal, Detainee Grievance Committee, Warden, and ICE.<sup>302</sup> According to the NWDC Detainee Handbook, “informal resolution of problems is

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<sup>290</sup> NWDC Detainee Handbook, p. 5.

<sup>291</sup> NWDC Detainee Handbook, p. 5.

<sup>292</sup> NWDC Detainee Handbook, p. 5.

<sup>293</sup> Notes of delegation member [REDACTED] b6 on conversation with Lieutenant [REDACTED] b6, b7c

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

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

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

<sup>297</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.A.

<sup>298</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections III.A.1 & 2.

<sup>299</sup> Detention Operations Manual, Detainee Services, Standard 5, Section I.

<sup>300</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections I. & III.C & D.

<sup>301</sup> NWDC Detainee Handbook, p. 19.

<sup>302</sup> Notes of delegation member [REDACTED] b6 on conversation with Officer [REDACTED] b6, b7c

encouraged.”<sup>303</sup> A detainee must wait until each level in the grievance process is completed before submitting the issue to the next level.<sup>304</sup> The disposition at each level is determined by a single person.<sup>305</sup>

Officer [b6,b7c] stated that detainees are contacted about their grievances and receive notification back of its resolution within five business days of its submission.<sup>306</sup> Emergency grievances involving imminent threats to health or safety of a detainee are given immediate attention and a quicker resolution.<sup>307</sup> One detainee interviewed by the delegation filed a grievance regarding what he perceived to be an unwarranted strip search.<sup>308</sup> He received no formal response, but he received an apology from the accused officer, who appeared to him to be the same officer responsible for reviewing the complaint.<sup>309</sup> Another detainee stated that he has not submitted any formal grievances (written forms filed in boxes located in the housing units) because he has a friend who submitted many grievances regarding food quality and was treated in a retaliatory manner thereafter, without receiving a response.<sup>310</sup> Although the NWDC Detainee Handbook has a section on grievance procedures, two detainees were completely unaware of the grievance process.<sup>311</sup> One of them, a detainee who did not receive the Handbook, stated that had he known about the process he would have filed a grievance regarding one particular officer’s aggression.<sup>312</sup>

#### **L. 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>313</sup> Each facility holding ICE detainees must have a detainee disciplinary system which has “progressive levels of reviews, appeals, procedures, and documentation procedures.”<sup>314</sup> The disciplinary policy must clearly define

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<sup>303</sup> NWDC Detainee Handbook, p. 19.

<sup>304</sup> NWDC Detainee Handbook, p.19.

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

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

<sup>307</sup> NWDC Detainee Handbook, p. 19.; notes of delegation member [b6] on conversation with Officer [b6,b7c]

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

<sup>309</sup> Notes of delegation member [b6] on conversation with detainee [b6, b7c]

<sup>310</sup> Notes of delegation member [b6], on conversation with detainee A.

<sup>311</sup> Notes of delegation member [b6] on conversation with detainee [b6, b7c] notes of delegation member [b6], on conversation with detainee [b6, b7c]

<sup>312</sup> Notes of delegation member [b6] on conversation with detainee [b6, b7c]

<sup>313</sup> Detention Operations Manual, Security and Control, Standard 5, Section I.

<sup>314</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.1.

detainee rights and responsibilities, and any disciplinary action taken must not be capricious or retaliatory.<sup>315</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>316</sup> Officers who witness a prohibited act must prepare and submit an incident report.<sup>317</sup> The Standards provide that all incident reports filed by officers must be investigated within twenty-four hours of the incident.<sup>318</sup>

The detainee handbook must notify detainees of the disciplinary process, the prohibited acts and disciplinary severity scale, and the procedure for appeals.<sup>319</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>320</sup>

**NWDC meets this section of the Standards.** According to the NWDC Detainee Handbook, when a rules violation occurs, “any detainee who is charged with the violation of facility rules will receive a disciplinary hearing and be permitted to speak, call witnesses, have a staff representative and present evidence before a penalty is imposed.”<sup>321</sup> Incident reports are filed and investigated within twenty-four hours of the incident.<sup>322</sup>

Rules violations are divided into four categories, with Category I Offenses being the most severe.<sup>323</sup> Category I Offenses include killing, assaulting any person, rioting, possession of a weapon, and other serious offenses.<sup>324</sup> In response to a Category I Offense, the Discipline Committee may punish the detainee with any combination of the penalties that may result from lesser offenses in addition to the following penalties: (i) referral to ICE for criminal proceedings, (ii) disciplinary transfer, (iii) disciplinary segregation for up to sixty days, and (iv) restitution.<sup>325</sup> Category II Offenses are the second most severe and include fighting, threatening bodily harm,

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<sup>315</sup> Detention Operations Manual, Security and Control, Standard 5, Sections III.A.1 & 2.

<sup>316</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.3.

<sup>317</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.B.

<sup>318</sup> Detention Operations Manual, Security and Control, Standard 5, Sections III.B & C.

<sup>319</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.L.

<sup>320</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

<sup>321</sup> NWDC Inmate Handbook, p. 16.

<sup>322</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED]

<sup>323</sup> NWDC Inmate Handbook, p. 16.

<sup>324</sup> NWDC Inmate Handbook, p. 16.

<sup>325</sup> NWDC Inmate Handbook, p. 16; notes of delegation member [REDACTED] on conversation with Assistant Director [REDACTED]

and other similar offenses.<sup>326</sup> The punishment imposed for these offenses may be the same as Category I offenses; however, lesser penalties are also enumerated.<sup>327</sup> Minor infractions such as being in an unauthorized area, smoking, or using profanity are considered to be Category III or IV Offenses. These violations will result in mandatory penalties, but may also give rise to other lesser punishments.<sup>328</sup>

The NWDC Detainee Handbook notifies the detainees of the disciplinary process, the prohibited acts and disciplinary severity scale, and the appeal procedure of disciplinary findings.<sup>329</sup> In addition, the NWDC Detainee Handbook notifies detainees of the facility's rules of conduct and the sanctions imposed for the violation of these rules.<sup>330</sup> Lastly, the NWDC Detainee Handbook complies with the Standards by advising the detainees of their rights pursuant to Standards.<sup>331</sup> For instance, the NWDC Detainee Handbook articulates the detainee's "right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment," the "right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs," etc.<sup>332</sup>

### **M. Special Management Unit**

The Standards require that each facility establish a Special Management Unit ("SMU") that will isolate certain detainees from the general population.<sup>333</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 administrative separation if the presence of the detainee in the general population would pose a threat to self, staff, or other detainees, if the detainee would require protective custody, or for medical reasons.<sup>334</sup> 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, and a copy of the Disciplinary Segregation Order must be provide to the detainee within 24 hours of placement in disciplinary segregation.<sup>335</sup> The disciplinary committee may order placement in disciplinary segregation only when alternative dispositions would inadequately regulate the detainee's behavior.<sup>336</sup> The maximum sanction for a single incident is sixty days in

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<sup>326</sup> NWDC Inmate Handbook, p. 17.

<sup>327</sup> NWDC Inmate Handbook, p. 17.

<sup>328</sup> NWDC Inmate Handbook, pp. 18-19.

<sup>329</sup> NWDC Inmate Handbook, pp. 16-19.

<sup>330</sup> NWDC Inmate Handbook, pp. 16-19.

<sup>331</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.a; NWDC Inmate Handbook, p. 16.

<sup>332</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.a; NWDC Inmate Handbook, p. 16.

<sup>333</sup> Detention Operations Manual, Security and Control, Standard 14, Section I.

<sup>334</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.A.

<sup>335</sup> Detention Operations Manual, Security and Control, Standard 14, Sections III.A & B.

<sup>336</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.A.

disciplinary segregation.<sup>337</sup> The facility must have written procedures for regular review of all disciplinary segregation cases, including weekly reviews.<sup>338</sup>

All cells in the SMU must be well ventilated, appropriately heated, sanitary, and equipped with beds.<sup>339</sup> Segregated detainees shall have the opportunity to maintain a normal level of personal hygiene.<sup>340</sup> Recreation shall be provided to detainees in segregation in accordance with the “Recreation” standard.<sup>341</sup> Access to the law library shall generally be granted to detainees in segregation.<sup>342</sup> Detainees generally retain visitation privileges while in disciplinary segregation, and may not be denied legal visitation.<sup>343</sup> Medical professional shall visit the detainee in disciplinary segregation once daily during a workday.<sup>344</sup>

Detainees in administrative segregation generally have the same telephone privileges as other detainees,<sup>345</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>346</sup> Detainees in segregation shall have the same correspondence privileges as detainees in the general population.<sup>347</sup>

**NWDC does not fully meet this section of the Standards; detainees are placed in disciplinary segregation before they receive a hearing.** According to the NWDC Detainee Handbook, “Administrative Detention is intended for detainees with special housing requirements such as: (i) pending investigation or hearing regarding prohibited acts, (ii) pending transfer or releases within twenty-four hours, (iii) security risk, [or] (iv) protective custody.”<sup>348</sup> Conversely, “Disciplinary Segregation is a special housing unit for detainees who are: (i) a serious disruption to facility operations, (ii) in need of additional physical confines, [or] (iii) [are]

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<sup>337</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.A.

<sup>338</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.C.

<sup>339</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.2, and Standard 14, Section III.D.6.

<sup>340</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.11.

<sup>341</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.8, and Standard 14, Section III.D.13.

<sup>342</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.18, and Standard 14, Section III.D.15.e.

<sup>343</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.13 & 14, and Standard 14, Section III.D.17.

<sup>344</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.16.

<sup>345</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.16.

<sup>346</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.19.

<sup>347</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.20, and Standard 14, Section III.D.18.

<sup>348</sup> NWDC Inmate Handbook, p. 6.

under sanction of the Institutional Disciplinary Committee.”<sup>349</sup> NWDC confines detainees in Disciplinary Segregation for periods exceeding sixty days in cases where the detainee received sequential charges.<sup>350</sup>

When Disciplinary Segregation occurs, officers will file an incident report listing the charge.<sup>351</sup> It is the practice of NWDC to implement Disciplinary Segregation prior to order from the Institutional Disciplinary Committee, as a preliminary measure.<sup>352</sup> This preliminary segregation occurs during the first twenty-four hours while the detainee’s charges are reviewed.<sup>353</sup> This practice is contrary to the Standards.<sup>354</sup>

While segregated, detainees are provided the same standards of cell space, clothing, bedding, food, hygiene, correspondence, visitation and rights presentations.<sup>355</sup> However, their recreation time is moved from the recreation yard to another location.<sup>356</sup> Additionally, there is no change in the procedure for legal visitation, and detainees are permitted to make telephone calls for emergencies, to consulates, and for legal purposes.<sup>357</sup>

#### **N. Use of Force**

The Standards mandate that “[t]he use of force is authorized only after all reasonable efforts to resolve a situation have failed.”<sup>358</sup> Use of force is allowed when a detainee is violent or appears to be on the verge of violent behavior, and there is a threat to the detainee, others, and/or property.<sup>359</sup> Use of force can be employed without preparation or supervisor approval when the detainee presents an immediate and unexpected threat, otherwise use of force should involve pre-planning and evaluation of other alternatives (referred to as “calculated use of force”).<sup>360</sup> All calculated use of force must be documented on videotape.<sup>361</sup> When calculated use of force is employed, facility staff should use the “team technique,” where “trained staff members clothed in protective gear, including helmet with face shield, jumpsuit,

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<sup>349</sup> NWDC Inmate Handbook, p. 6.

<sup>350</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>351</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>352</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>353</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>354</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.A and B.

<sup>355</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>356</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>357</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>358</sup> Detention Operations Manual, Security and Control, Standard 17, Section I.

<sup>359</sup> Detention Operations Manual, Security and Control, Standard 17, Section III.A.

<sup>360</sup> Detention Operations Manual, Security and Control, Standard 17, Section III.A.2.

<sup>361</sup> Detention Operations Manual, Security and Control, Standard 17, Section III.A.2.b.

flack-vest or knife-resistant vest, gloves, and forearm protectors...enter the detainee's area together, with coordinated responsibility for achieving immediate control of the detainee."<sup>362</sup> Medication may be used to subdue a detainee, but only for medical purposes and not for staff convenience.<sup>363</sup> Use of force should never be used as a form of punishment.<sup>364</sup>

**NWDC meets this section of the Standards.** Facility staff first try verbal alternatives to force when a detainee becomes a potential threat.<sup>365</sup> When calculated force is used, the facility uses the "swarm" technique, where four or five officers dressed in protective gear surround the detainee and this crowding prevents significant movement.<sup>366</sup> Then "soft restraints" like plastic ties are often used to secure the hands and feet.<sup>367</sup> All anticipated incidents are videotaped and documented on paper.<sup>368</sup> Medication may be used to subdue a detainee in exceptional cases.<sup>369</sup>

### **O. Contraband**

The Standards state that detention staff "will handle and properly dispose of contraband in accordance with the standard operating procedures of the facility."<sup>370</sup> The detainee handbook shall contain information regarding the facility's rules and procedures regarding contraband destruction.<sup>371</sup>

**NWDC meets this section of the Standards.** The NWDC Detainee Handbook sets forth the Facility's policy regarding contraband.<sup>372</sup> Moreover, NWDC has an internal written policy regarding contraband.<sup>373</sup> So long as the contraband is not illegal, it will be placed with the

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<sup>362</sup> Detention Operations Manual, Security and Control, Standard 17, Section III.A.4.

<sup>363</sup> Detention Operations Manual, Security and Control, Standard 17, Section IV.B.8.

<sup>364</sup> Detention Operations Manual, Security and Control, Standard 17, Section IV.B.1.

<sup>365</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>366</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>367</sup> Notes of delegation member [REDACTED] b6 on conversation with Officer [REDACTED] b6,b7c

<sup>368</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>369</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED] b6,b7c

<sup>370</sup> Detention Operations Manual, Security and Control, Standard 1, Section I.

<sup>371</sup> Detention Operations Manual, Security and Control, Standard 1, Section III.D.1.

<sup>372</sup> NWDC Detainee Handbook, pp. 13-14; notes of delegation member [REDACTED] b6 on conversation with Assistant Director [REDACTED] b6,b7c

<sup>373</sup> GEO Group, Inc [REDACTED] re Manual, Security and Control, Contraband (version 3.1.17); notes of delegation member [REDACTED] b6 on conversation with Assistant Director [REDACTED] b6,b7c

detainee's other personal possessions and returned to the detainee upon release.<sup>374</sup> The detainee will receive a receipt listing the seized contraband.<sup>375</sup>

#### **P. 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, ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame.”<sup>376</sup> The Standards suggest that both weekly visits be conducted by ICE personnel and that “regular unannounced (not scheduled) visits” be conducted by the ICE Officer in Charge, the Assistant Officer in Charge, and designated department heads.<sup>377</sup> Unannounced visits to the facility's housing areas must be conducted on a regular basis—weekly at contract detention facilities.<sup>378</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>379</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>380</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>381</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>382</sup>

**NWDC substantially meets this section of the Standards; however, no special assistance is provided to detainees who are disabled or illiterate.** Assistant Director [REDACTED] and Officer [REDACTED] make weekly, unannounced visits to the facility's living and activity areas.<sup>383</sup> ICE officers also visit housing units on Tuesdays and Fridays to respond to written requests from detainees.<sup>384</sup> Detainees may fill out a standard Detainee Request Form and put it in the ICE mail

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<sup>374</sup> NWDC Detainee Handbook, p. 13; notes of delegation member [REDACTED], on conversation with Assistant Director [REDACTED].

<sup>375</sup> NWDC Detainee Handbook, p. 13; notes of delegation member [REDACTED], on conversation with Assistant Director [REDACTED].

<sup>376</sup> Detention Operations Manual, Detainee Services, Standard 15, Section I.

<sup>377</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

<sup>378</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.1.

<sup>379</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

<sup>380</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

<sup>381</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

<sup>382</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.1.

<sup>383</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED].

<sup>384</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED].

box in their housing unit if they want to speak to someone from ICE.<sup>385</sup> There are copies of these forms for the detainees in each housing unit.<sup>386</sup> Only ICE officers empty the ICE mail boxes in the housing units.<sup>387</sup> No special assistance is provided to detainees who are disabled or illiterate; they must rely on other detainees to help them fill out a Detainee Request Form.<sup>388</sup>

### **Q. 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>389</sup> Participation must be voluntary, and detainees may not work more than eight hours per day and forty hours per week.<sup>390</sup>

**NWDC meets this section of the Standards.** The Facility provides detainees with the opportunity to participate in the voluntary work program.<sup>391</sup> Wages are \$1.00 per day, and ordinarily a detainee will not be allowed to work more than eight hours per day and forty hours per week.<sup>392</sup> Detainees may have different assignments, for example they may work in the laundry room or the kitchen, or as a barber or maintenance worker.<sup>393</sup> Detainees must be physically cleared before they can be assigned to food services.<sup>394</sup> Several detainees reported working in the program.<sup>395</sup> One detainee was not able to participate in the voluntary work program because he only had sandals, and the Facility would not provide him closed-toe shoes.<sup>396</sup>

### **R. 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>397</sup> The Standards require ICE to notify a detainee’s legal representative of record

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<sup>385</sup> Notes of delegation member [REDACTED], on conversation with Officer [REDACTED] (a Detainee Request Form is attached).

<sup>386</sup> Notes of delegation member [REDACTED] b6, on conversation with Officer [REDACTED] b6, b7c

<sup>387</sup> Notes of delegation member [REDACTED], on conversation with Officer [REDACTED] b6, b7c

<sup>388</sup> Notes of delegation member [REDACTED], on conversation with Officer [REDACTED] b6, b7c

<sup>389</sup> Detention Operations Manual, Detainee Services, Standard 37, Sections I & III.A.

<sup>390</sup> Detention Operations Manual, Detainee Services, Standard 37, Sections III.C & H.

<sup>391</sup> NWDC Detainee Handbook, p. 10.

<sup>392</sup> NWDC Detainee Handbook, p. 10; notes of delegation member [REDACTED] b6, on conversation with detainee [REDACTED] b6, b7c

<sup>393</sup> NWDC Detainee Handbook, p. 10.

<sup>394</sup> NWDC Detainee Handbook, p. 10.

<sup>395</sup> Notes member [REDACTED] b6, on con [REDACTED] b6, b7c notes of delegation member [REDACTED] b6, on con [REDACTED] b6, b7c detainee [REDACTED]

<sup>396</sup> Notes of delegation member [REDACTED] b6, on conversation detainee [REDACTED] b6, b7c

<sup>397</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Section I.

that the detainee is being transferred.<sup>398</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>399</sup> Records including the detainee's Alien File ("A-file") and medical history must accompany the detainee.<sup>400</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>401</sup> A detainee's legal materials, cash, and small valuables shall always accompany the detainee to the receiving facility; larger items may be shipped.<sup>402</sup>

**NWDC meets this section of the Standards.** Attorneys are notified when their clients are transferred and are provided with information regarding the date of transfer as well as the new mailing address and phone number of the facility.<sup>403</sup> Upon transfer, detainees are accompanied by their legal materials as well as their medications and medical records.<sup>404</sup> Detainees are fed just before transfer and are provided with two portable meals for the journey.<sup>405</sup> Furthermore, detainees are able to make telephone calls upon arrival to NWDC and indigent detainees are provided with one free telephone call, and Assistant Director [b6,b7c] also indicated that this happens at the receiving facility as well.<sup>406</sup>

#### **S. Hold Rooms in Detention Facilities**

The Standards provide for hold rooms to be used for the temporary detention of individuals awaiting removal, transfer, medical treatment and other processing.<sup>407</sup> Hold rooms must be well ventilated and well lit.<sup>408</sup> The rooms must contain thirty-seven square feet of unencumbered space, not including benches and tables, and an additional seven square feet of space for each additional detainee.<sup>409</sup> At least two lavatories shall be present in large hold rooms, those with a capacity in the range of fifteen to forty-nine detainees, although the Standard also cites the Hold Room Design Standards A-E, HDR Architecture ("HDR Standards"), as recommending one lavatory unit for every fifteen detainees.<sup>410</sup> No detainee may be placed in a

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<sup>398</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Section III.A.

<sup>399</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Section III.G.

<sup>400</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.D.1 & 6.

<sup>401</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Section III.D.D [sic].

<sup>402</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Section III.E.

<sup>403</sup> Notes of Delegation Member [b6] on conversation with Assistant Director [b6,b7c]

<sup>404</sup> Notes of Delegation Member [b6] on conversation with Assistant Director [b6,b7c]

<sup>405</sup> Notes of Delegation Member [b6] on conversation with Officer [b6,b7c]

<sup>406</sup> Notes of Delegation Member [b6] on conversation with Assistant Director [b6,b7c]

<sup>407</sup> Detention Operations Manual, Security and Control, Standard 8, Section I.

<sup>408</sup> Detention Operations Manual, Security and Control, Standard 8, Section III.A.3.

<sup>409</sup> Detention Operations Manual, Security and Control, Standard 8, Section III.A.2.

<sup>410</sup> Detention Operations Manual, Security and Control, Standard 8, Section III.A.6.

hold room for longer than twelve hours, and males must be separated from females.<sup>411</sup> Detainees shall be provided with basic personal hygiene items.<sup>412</sup> Detainees will undergo a pat down search, and if the patdown search indicates the need for a more thorough search, then a strip search may be conducted.<sup>413</sup>

**NWDC substantially meets this Standard; however, the Standard appears to require that more lavatories be available in the larger hold rooms.** NWDC contains eight hold rooms with maximum occupancies from one to one hundred, according to posted holding capacity signs.<sup>414</sup> Close inspection of the hold rooms was not possible due to the high volume of detainees present during the delegation's visit, but the hold rooms appeared to be ventilated and well lit.<sup>415</sup> The larger hold rooms contain two lavatories while the smaller hold rooms contain one.<sup>416</sup> However, the hold rooms with maximum occupancies of fifty-seven and one hundred people still contain only two lavatories.<sup>417</sup>

While placed in hold rooms, detainees are separated by gender.<sup>418</sup> Detainees are able to shower and are provided basic personal hygiene items such as soap and toilet paper.<sup>419</sup> Additionally, detainees undergo pat-down searches and are not subject to strip searches.<sup>420</sup>

## V. CONCLUSION

The Northwest Detention Facility meets many of the ICE Detention Standards that the delegation reviewed. However, several areas in which the Facility can improve are identified below. Some issues persist from the time of the ABA's visit in 2006.

In order to facilitate legal visitation, NWDC should post a consistent visitation schedule, and should provide the schedule telephonically so that visitors and attorneys are better informed of the hours of visitation.

To provide adequate telephone access to detainees, NWDC should continue to improve the telephone systems to ensure that detainees can place free, direct calls to pro bono legal service providers and consulates. NWDC should provide indigent detainees free access to certain categories of calls as specified in the Standards. NWDC should not record or monitor detainee phone calls regarding legal matters, absent a court order, and should provide readier

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<sup>411</sup> Detention Operations Manual, Security and Control, Standard 8, Section III.B.

<sup>412</sup> Detention Operations Manual, Security and Control, Standard 8, Section III.B.4.

<sup>413</sup> Detention Operations Manual, Security and Control, Standard 8, Section III.C.

<sup>414</sup> Observations of Delegation Member [REDACTED]

<sup>415</sup> Observations of Delegation Member [REDACTED]

<sup>416</sup> Notes of Delegation Member [REDACTED], on conversation with Lieutenant [REDACTED]

<sup>417</sup> Notes of Delegation Member [REDACTED], on conversation with Lieutenant [REDACTED]

<sup>418</sup> Observations of Delegation Member [REDACTED]

<sup>419</sup> Notes of Delegation Member [REDACTED] on conversation with Officer [REDACTED]

<sup>420</sup> Notes of Delegation Member [REDACTED] on conversation with Officer [REDACTED]

access to private and unmonitored calls rather than requiring a five-day wait. NWDC should ensure that phone calls are not cut off when too many digits are dialed, as in the case of a touch-tone menu system. All telephone messages should be delivered.

To support detainees' access to legal materials and legal representation, NWDC should ensure that detainees with an impending court date are provided with additional time in the law library. NWDC should develop a formal process to assist non-English speaking detainees in requesting non-English legal materials, using the law library and contacting pro bono legal organizations. Per the Standards, NWDC may wish to contact ICE for assistance in this regard and jointly develop procedures to meet the needs of non-English speaking detainees.

NWDC should ensure that the Know Your Rights video is shown to all detainees on a regular basis.

To ensure that outgoing special correspondence is not inspected, NWDC should communicate to its staff the Standards requirements regarding special correspondence.

To provide detainees adequate procedural rights and protection, NWDC should review its Disciplinary Segregation policies to ensure that the Standards are being met. A detainee should only be placed in disciplinary segregation by order of the Institutional Disciplinary Committee.

Finally, given the increase in the detainee population of NWDC in 2007 from the delegation's visit in 2006, NWDC should pay special attention to logistical problems caused by overcrowding. For example, the delegation observed that the holding rooms and the law library were full. Access to telephones, family and legal visitation, and recreation are limited by the current space and facilities, which are under increasing pressure as a result of the rising population.

Facility Name: **NORTHWEST DETENTION CENTER, Tacoma, Washington**

Date of Tour: **July 19, 2007**

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

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

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

	ICE Standard*	Delegation Report	Source	ICE Response
1.	<p><b>Standard 17, Visitation</b></p> <ul style="list-style-type: none"> <li>▪ <b>I. To maintain detainee morale and family relationships, [ICE] encourages visits from family and friends.</b></li> <li>▪ <b>III.B. Notification. The facility shall provide written notification of visitation rules and hours in the detainee handbook .... The facility shall also post these rules and hours where detainees can easily see them. Each facility shall make the schedule and procedures available to the public, both in written form and telephonically. A live voice or recording shall provide telephone callers with the hours for all categories of visitation.</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>There are conflicting schedules posted at the facility for both attorney and family visitation. (p.5 ¶3, p.6 ¶2)</b></li> <li>▪ <b>The visiting schedule is not provided telephonically. (p.6 ¶3)</b></li> </ul>	<p><b>Delegation observations.</b></p> <p>[redacted] <b>t Director</b></p>	

<p>2. <b>Standard 16, Telephone Access</b></p> <ul style="list-style-type: none"> <li>▪ I. Facilities holding [ICE] detainees shall permit them to have reasonable and equitable access to telephones.</li> <li>▪ III.A. The facility shall provide detainees with reasonable access to telephones during established facility waking hours ....</li> <li>▪ III.B. [T]he facility shall provide telephone access rules in writing to each detainee upon admittance, and also shall post these rules where detainees may easily see them.</li> <li>▪ III.E. The facility shall not require indigent detainees to pay for [legal, court-related, consular, emergency calls] if they are local calls, nor for non-local calls if there is a compelling need.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Indigent detainees may not be aware of the facility's rule regarding how to make free calls because the telephone access rules contained in the NWDC Detainee Handbook and posted near the telephones do not address indigent detainees. Two detainees stated that indigent detainees are unaware of the right to make free calls; one stated that detainees who cannot afford to purchase a calling card typically either earn money in the volunteer work program or borrow a calling card from another detainee. (p.9 ¶1)</li> <li>▪ Detainees may not be aware of the option to make private calls to legal representatives because the telephone access rules contained in the NWDC Detainee Handbook and posted near the telephones do not address this option. (p.10 ¶1)</li> <li>▪ There is a maximum number of digits that may be dialed on the telephones, so one detainee stated he sometimes gets cut off when navigating touch-tone menu systems. (p.9 ¶2)</li> </ul>	<p>Delegation observations detainees 6, b7 6, b7</p> <p>Delegation observations.</p> <p>Detainee 6, b7</p>	
<p>3. <b>Standard 16, Telephone Access</b></p> <ul style="list-style-type: none"> <li>▪ III.I. The facility shall take and deliver telephone messages to detainees as promptly as possible.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Telephone messages from attorneys and emergency telephone calls are delivered to detainees as soon as possible, but other messages are not recorded and delivered. (p.10 ¶3)</li> </ul>	<p>Officer 6, b7 ; detainee A.</p>	
<p>4. <b>Standard 16, Telephone Access</b></p> <ul style="list-style-type: none"> <li>▪ III.J. The facility shall ensure privacy for detainees' telephone calls regarding legal matters. For this purpose, the facility shall provide a reasonable number of telephones on which detainees can make such calls without being overheard by officers, other staff or other detainees. Facility staff shall not electronically monitor detainee telephone calls on their legal matters, absent a court order.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Detainees are required to file a request form at least five days in advance if they want to make a private or unmonitored telephone call. (p.9 ¶4)</li> </ul>	<p>Officer 6, b7 ; delegation observations; t Director 6, b7</p>	

5.	<p><b>Standard 1, Access to Legal Material</b></p> <ul style="list-style-type: none"> <li>III.G. The facility shall...permit all detainees, regardless of housing or classification, to use the law library on a regular basis. Each detainee shall be permitted to use the law library for a minimum of five (5) hours per week. Detainees may not be forced to forgo their minimal recreation time, as provided in “Detainee Recreation,” standard to use the law library.</li> <li>III.M. Detainees housed in ... Segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations.</li> </ul>	<ul style="list-style-type: none"> <li>Although Librarian [REDACTED] explained that requests for addition [REDACTED] time (up to three hours per day) are generally granted, one detainee stated that extensions, even in the face of an impending court date, were rarely, if ever, awarded. (p.12 ¶1)</li> <li>Although the standards proscribe forcing detainees to choose between [REDACTED] se and recreation time, Librarian [REDACTED] indicated that such a decision may b [REDACTED] of detainees, especially in situations when alternate recreation time cannot be arranged. (p.12 ¶2)</li> </ul>	<p>Librarian [REDACTED]</p> <p>[REDACTED]</p> <p>Detainee [REDACTED]</p>	
6.	<p><b>Standard 1, Access to Legal Material</b></p> <ul style="list-style-type: none"> <li>III.J. The facility shall ensure that detainees can obtain copies of legal material ....</li> </ul>	<ul style="list-style-type: none"> <li>One detainee reported an instance when he did not receive his photocopies for two weeks. (p.14 ¶3)</li> </ul>	<p>Detainee A.</p>	
7.	<p><b>Standard 1, Access to Legal Material</b></p> <ul style="list-style-type: none"> <li>III.L. Unrepresented ... non-English speaking detainees who wish to pursue a legal claim related to their immigration proceedings or detention and indicate difficulty with the legal materials must be provided with more than access to a set of English-language law books. Facilities shall establish procedures to meet this obligation, such as: 1. helping the detainee obtain assistance in using the law library and drafting legal documents ... 2. assisting in contacting <i>pro bono</i> legal-assistance organizations from the [ICE]-provided list.</li> </ul>	<ul style="list-style-type: none"> <li>One detainee indicated that a lack of Spanish resources, coupled with the lack of assistance available for Spanish speakers in the library, made legal research for Spanish speakers an almost impossible task. (p.15 ¶2)</li> </ul>	<p>Detainee A.</p>	
8.	<p><b>Standard 9, Group Presentations on Legal Rights</b></p> <ul style="list-style-type: none"> <li>III.I. Videotaped presentations. The facility shall play [ICE]-approved videotaped presentations on legal rights, at the request of outside organizations. ... The facility shall provide regular opportunities for detainees in the general population to view the videotape.</li> </ul>	<ul style="list-style-type: none"> <li>Although Director [REDACTED] informed the delegation that the Know Yo [REDACTED] ts video was shown in English and Spanish every morning, one detainee reported never having seen the video in its entirety, while others stated that it was shown irregularly, and more frequently in some pods than others. (p.16 ¶3)</li> </ul>	<p>Director [REDACTED]</p> <p>detainees [REDACTED]</p>	
9.	<p><b>Standard 3, Correspondence and Other Mail</b></p> <ul style="list-style-type: none"> <li>III.F. Inspection of Outgoing Correspondence and Other Mail. Outgoing special correspondence will not be opened, inspected, or read.</li> </ul>	<ul style="list-style-type: none"> <li>The Facility inspects outgoing correspondence, including legal correspondence: detainees are required to open their correspondence and then reseal it before shipment. (p.17 ¶2)</li> </ul>	<p>Officer [REDACTED]</p>	

10.	<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> <p><b>Standard 3, Correspondence and Other Mail</b></p> <ul style="list-style-type: none"> <li>III.I. Postage Allowance. Indigent detainees will be permitted to mail a reasonable amount of mail each week, including at least five pieces of special correspondence and three pieces of general correspondence.</li> </ul>	<ul style="list-style-type: none"> <li>According to the detainee handbook, indigent detainees “may send up to three personal letters per week, weighing no more than two ounces each, at no cost” and “a reasonable number of special correspondences may also be sent out at no cost.” Director [REDACTED] indicated that a detainee could send up to five pieces of special correspondence per week. However, several detainees were either unaware that indigent detainees were entitled to free postage, or believed that the Facility did not provide free postage to indigent detainees even when it was requested. (p.17 ¶3)</li> </ul>	<p>Detainee Handbook Director [REDACTED] detainee [REDACTED]</p>	
11.	<p>Health Services Standard 2, Medical Care</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.F. Each facility will have a mechanism that allows detainees the opportunity to request health care services provided by a physician or other qualified medical officers in a clinical setting. All facilities must have a procedure in place to ensure that all request slips are received by the medical facility in a timely manner....</li> </ul>	<ul style="list-style-type: none"> <li>One detainee had a foot injury, which was aggravated by the shoes supplied to him by the facility. Medical staff told the detainee to get larger shoes, but as the detainee is indigent, this option was not possible. Another detainee reported that he is never given advance notice of his medical appointments. A third detainee has a respiratory problem that he feels needs urgent attention, but his requests for medical care have been ignored. (p.21 ¶3)</li> </ul>	<p>Detainees [REDACTED]</p>	
12.	<p>Standard 5, Detainee Grievance Procedures</p> <ul style="list-style-type: none"> <li>I. [S]tandard operating procedures (SOP) must establish a reasonable time limit for: ... (iii) providing written responses to detainees who filed formal grievances, including the basis for the decision.</li> </ul>	<ul style="list-style-type: none"> <li>One detainee interviewed by the delegation filed a grievance regarding what he perceived to be an unwarranted strip search. He received no formal response. (p.26 ¶2)</li> </ul>	<p>ee [REDACTED]</p>	
13.	<p>Security and Control Standard 14, Special Management Unit (Disciplinary Segregation)</p> <ul style="list-style-type: none"> <li>III.A. 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.</li> <li>III.B. A written order shall be completed and signed by the chair of the Institutional Disciplinary Committee panel before a detainee is placed in disciplinary segregation.</li> </ul>	<ul style="list-style-type: none"> <li>It is the practice of NWDC to implement Disciplinary Segregation prior to order from the Institutional Disciplinary Committee, as a preliminary measure. This preliminary segregation occurs during the first twenty-four hours while the detainee’s charges are reviewed. (p.30 ¶2)</li> </ul>	<p>Officer [REDACTED]</p>	

14.	<p>Standard 15, Staff-Detainee Communication.</p> <ul style="list-style-type: none"> <li>▪ III.B. A detainee may obtain assistance from another detainee, housing officer, or other facility staff in preparing a request form. The OIC shall ensure that the standard operating procedures cover detainees with special requirements, including those who are disabled, illiterate, or know little or no English. Each facility will accommodate the special assistance needs of such detainees in making a request.</li> </ul>	<ul style="list-style-type: none"> <li>▪ No special assistance is provided to detainees who are disabled or illiterate; they must rely on other detainees to help them fill out a Detainee Request Form. (p.33 ¶1)</li> </ul>	Officer [REDACTED]	
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