

MEMORANDUM

To: Anthony S. Tangeman, Deputy Executive Commissioner Office of Detention and Removal

From: American Bar Association Delegation to Oakland City Jail¹

Re: Report on Observations during a General Tour of the Oakland City Jail, California

Date: September 19, 2003

This memorandum evaluates and summarizes facts and findings gathered at the Oakland City Jail in Oakland, California. The information was gathered via observation of the facility by the delegation, reference to the "Information and Rules for Inmates" Handbook of the Jail and interviews with facility and ICE staff on July 31, 2003.

I. ICE Detention Standards

The Immigration and Naturalization Service ("INS") promulgated the "INS Detention Standards" (the "*Standards*") in November 2000. There are 36 standards that cover a broad range of issues from visitation policies to grievance procedures and food service. The Standards apply to facilities including, INS Service Processing Centers ("SPCs"), Contract Detention Facilities ("CDFs"), and state and local government utilized by the INS through Intergovernmental Service Agreements ("IGSAs"). These standards were to have been implemented at every facility by January 2003. They constitute a "floor" and not a "ceiling" for the treatment of INS detainees.

On March 1, 2003, the Bureau of Immigration and Customs Enforcement (ICE), under the Border and Transportation Security Directorate of the Department of Homeland Security, became the federal entity responsible for the enforcement of customs and immigration laws and the protection of federal buildings against terrorist and other threats.

II. Introduction

A. The Delegation's July 31st Visit

On July 31, 2003, the members of our delegation met with several members of the Oakland City Jail staff and members of the ICE staff. Our delegation met with Lieutenant b6, b7C Sergeant b6, b7C Correctional Officer Supervisor b6, b7C, ICE Chief Detention Officer b6, b7C and ICE Detention Officer b6, b7C. Where appropriate, this report will attribute statements to the particular individual who made them.

¹ The delegation was comprised of b6 b6 and b6 Associates at Latham & Watkins LLP (Silicon Valley), and b6 and b6, Summer Associates at Latham & Watkins LLP (Silicon Valley).

Because the Oakland City Jail is a short-term holding facility for ICE detainees, the delegation was unable to identify detainees housed at the facility in advance, and thus was unable to conduct any detainee interviews.

B. The Oakland Facility

The Oakland City Jail is located in Oakland, California. It serves as an IGSA for ICE. The facility houses both men and women, including persons detained by ICE, federal prisoners being held at the request of the United States Marshal, and persons being held pursuant to state and local law (the “general prisoner population”). Men detained by the ICE are housed in a cell block separate from the federal prisoners and general prisoner population. Women detained by the ICE, while separated from the general prisoner population, are housed in the same cell block as female federal prisoners. Sergeant [b6, b7C] reasoned that this shared housing arrangement did not pose a threat to the women detained by the ICE because the federal prisoners at the Oakland City Jail are overwhelmingly non-violent white collar criminals.

On the day we visited, there were approximately 12 male and 9 female ICE detainees. The facility principally functions as a short-term holding facility for detainees who are waiting for processing or hearings with ICE or the Immigration Court. Stays longer than 30 days are unusual, and some detainees stay for only 2 or 3 days. There are rare exceptions. Sergeant [b6, b7C] reported that one detainee remained at the jail for 3 years.

Most ICE detainees at the Oakland City Jail have been taken into custody at the Oakland International Airport. Detainees are from many different countries, but there are significant numbers from Asia, Central America, and Mexico.

The Oakland City Jail is housed in a secure building. There is a processing area, a library, a dining facility, a small indoor recreation area, a visiting area, a commissary, and a dispensary.

The Oakland City Jail staff has prepared a handbook for all inmates called “Information and Rules for Inmates” (the “Handbook”), attached to this memorandum as Exhibit A. The Handbook covers the basic rules and regulations of the jail. While sufficiently detailed for a general prisoner population, the publication does not address the specific issues likely to be faced by detainees such as how to request additional immigration-related legal materials from ICE. The delegation did not ascertain whether the publication is available in languages other than English.

III. Observations of Implementation of Legal Access Standards

A. Visitation

1. Legal Visitation

According to the *Standards*, legal visitation should be allowed seven days a week for a minimum of eight hours on weekdays and four hours on weekends. Legal visitations should not be terminated for meals or routine official counts. Procedures should be in place to permit the detainee to receive a meal or recreation after the interview.²

The Handbook provided by the facility does not specifically address attorney visitation. This could cause confusion, as detainees may wrongly assume that visitation by attorneys is subject to the same restrictions and guidelines as non-legal visitation. In fact, Sergeant [b6, b7C] indicated that attorneys are allowed to visit at “any time” and that the jail was flexible in accommodating lengthy attorney visits. There was no formal policy for handling missed meals or recreation time, but Sergeant [b6, b7C] suggested that such situations rarely, if ever, were a problem.

Attorney visits take place in booths with a plexi-glass barrier. The booths are essentially well-lit concrete boxes with a metal bench and metal counter. They provided a workable, but by no means comfortable, environment for exchanging information or providing legal service. One booth has been modified to allow attorneys to pass boxes of documents to the clients if needed, and also to allow room for a wheelchair or a translator. All visits are non-contact. Detainees are searched, but not strip-searched, after each visit. Each booth is clearly visible and subject to observation by jail staff, but Sergeant [b6, b7C] indicated that they do not monitor conversations with attorneys.

The *Standards* provide that pro bono and non-governmental agency information should be posted clearly, updated, and be accompanied by instructions on how to contact such agencies. The facility also must provide assistance to unrepresented illiterate or non-English speaking detainees who wish to contact such agencies.³

No such information appeared to be posted anywhere in the Oakland City Jail. Sergeant [b6, b7C] indicated that they are not allowed to recommend legal counsel besides a public defender. However, Sergeant [b6, b7C] indicated that ICE detainees are provided a list of free legal services providers when processed by the ICE. This arrangement could pose a problem, as detainees, once processed and transferred to the jail, would have no further access to updated information. They may not be fully aware of their situation and legal needs at the time of initial processing, or their legal needs may change.

2. Visitation by Family and Friends

² Detention Operation Manual (DOM) Standard 1: Visitation § III.I.2.

³ DOM Standard 1: Visitation § III.I.14 & DOM Standard 4: Access to Legal Material § III.L.

The *Standards* provide that facilities should permit authorized persons to visit detainees within security and operational constraints. To maintain detainee morale and family relationships, the *Standards* encourage visits from family and friends. Visiting hours should be clearly posted and permitted during set hours on weekends and holidays. Special arrangements should be available for family members who cannot visit during regular hours. Visits should last for at least 30 minutes.⁴

A visitation schedule is printed in the Handbook.⁵ Visiting times are listed as Tuesdays and Saturdays, 7:00 – 9:00 p.m. for male detainees, and Wednesdays and Saturdays, 1:30 – 3:30 p.m. for female detainees. Sergeant [b6, b7C] indicated that they are able to accommodate visits at alternative times if required by special circumstances. According to the Handbook, each detainee is allowed two visits per week for a total of one hour visiting time.⁶ Although the jail's formal time limit on visits is fifteen minutes, Sergeant [b6, b7C] claimed to be flexible with longer visits. According to Sergeant [b6, b7C] if no one else needed to use the booths, a detainee "could visit all day if they want." Thus, there is some confusion as to the time limit, but if a fifteen minute limit were enforced it would fall below the guidelines provided by the *Standards*. These visits take place in concrete booths similar to those used for attorney visits and are also non-contact. Visitors can leave money for detainees' accounts.⁷ Minors are allowed to visit, but they must be accompanied by an adult.⁸ In addition to visits at the jail, detainees with children are allowed to have contact visits with their children every Friday at a separate facility in San Francisco.⁹

B. Telephone Access

The *Standards* provide that facilities shall permit detainees to have reasonable and equitable access to telephones.¹⁰

The delegation observed that telephones were in abundance in the facility. Phones were available in the main detainee room, in the hallway outside the isolation cells, and in the gymnasium and library. Overall, there seemed to be an ample number of telephones readily available to detainees.

The phones use AT&T. Sergeant [b6, b7C] indicated that calls were generally placed collect; it did not seem that detainees could purchase calling cards for better phone rates. There was no

⁴ DOM Standard 1: Visitation § III.H.1.

⁵ See Exhibit A at p. 4, ¶ 16.

⁶ *Id.* at p. 5, ¶ 16.

⁷ *Id.* at p. 6, ¶ 18.

⁸ *Id.* at p. 5, ¶ 16(a).

⁹ Interview with ICE Chief Detention Officer [b6, b7C] July 31, 2003.

¹⁰ DOM Standard 2: Telephone Access § I.

list of free pre-programmed numbers posted next to the phones, and it was not clear that any such pre-programmed free calls could be made.

The *Standards* require that detainees be able to discuss their legal cases over the phone in private. It seems likely that such private conversations in the facility would be difficult. All phones are in visible, open environments and do not have privacy panels. A detainee's ability to conduct a private conversation would largely be left to the random chance nobody else was around in the cell, gym, or library when he or she placed a call.

Sergeant [b6, b7C] indicated that language problems were usually resolved by detainees acting as translators for one another. However, in the event nobody spoke a particular language, the facility has an arrangement with AT&T to provide a translator over the phone (at no charge to the detainee, and great expense to the facility).

The Handbook makes clear that detainee use of telephones is a privilege and may be restricted or revoked at any time.¹¹ Furthermore, the Handbook warns that any phones damaged or destroyed by inmates may not be repaired or replaced for some time, and inmate conduct shall determine availability. The delegation observed ample phones which appeared to be in good working order, and no signs that "inmate conduct" had led to any restrictions in phone access. However, the policy as stated in the Handbook indicates a troubling attitude towards phone use.¹² The jail does not seem to grasp that detainees should have phone access as a matter of right, not privilege. Limiting phone use by one detainee based on the conduct of another inmate would be especially unfair. There was no evidence, however, that this attitude had yet led to any such restrictions.

C. Group Rights Presentations

The *Standards* indicate that attorneys, non-profits and BIA certified organizations have the right to conduct legal rights presentations in detention facilities. ICE approved videotapes and materials may be shown and distributed at the request of outside organizations.

ICE Chief Detention Officer [b6, b7C] indicated that no group rights presentations took place. To their knowledge, no organization had ever asked for the chance to make such a presentation. It was not clear whether a request to make a group presentation would be granted. Officer Linares seemed to feel that such presentations just would not make sense at the Oakland City Jail, because of the relatively low number of ICE detainees and the relatively short time each spends there.

D. Access to Legal Materials

¹¹ See Exhibit A at p. 6, ¶ 19.

¹² *Id.*

The *Standards* mandate that each facility establish and maintain a law library.¹³ The library must be adequately lighted, reasonably quiet, and large enough to support legal research and writing. It must also contain an adequate number of tables and chairs to accommodate all detainees who wish to use the facility. Finally, the library should provide one typewriter or computer per five detainees, as well as sufficient writing materials and texts to enable detainees to conduct research and prepare legal documents.

The Oakland City Jail library does not meet many of the requirements set forth in the *Standards*. The most serious issues are the size of the library and its dearth of printed legal materials.

The library is far too small. It is essentially a caged room within the recreation room. It consists of a couple of small bookcases, a TV/VCR for educational programming, and a long computer table with two computers and two chairs. Although it is adequately lit, there are no tables available to sit and read or write.

While the library is located within the recreational room, Correctional Officer Supervisor [b6, b7C] assured us that the two rooms are never used at the same time. The schedules offered in the Handbook support this assertion.¹⁴ Assuming that nobody would be using the recreation area while detainees were using the library, the library is located in a reasonably quiet area of the jail.

There are two adequate computers in the library. They run Windows and have a recent version of Microsoft Word installed for word processing. They also have a CD-ROM version of LEXIS-NEXIS, giving the detainees access to many basic legal sources including case law, the United States Code, the Constitution, and the C.F.R. According to Officer [b6, b7C] updates to the CD-ROM are sent to her and installed periodically. Officer [b6, b7C] indicated that these updates arrive at least once per year.

While the computers are adequate, there are not enough of them given the number of detainees and other prisoners who may need to use them. Of greater concern, however, is the fact that there are very few printed legal materials available in the library. Our delegation was unable to determine if the jail provided computer assistance for detainees who might be unfamiliar with the systems. Detainees who lack computer skills would be unable to access most basic legal materials they would need. And while ICE Chief Detention Officer [b6, b7C] [b6, b7C] reported that detainees could request additional legal materials not available in the library either through the commissary or through the ICE, this information is not specifically addressed in the Handbook.

Compounding the problem, on the date of our visit, the library lacked both a printer and photocopier. Officer [b6, b7C] indicated that these had both recently broken and that replacements had been ordered. This is a serious problem, given that the legal materials may not be removed from the library. Without either a printer or a copier, detainees completely lack the ability to

¹³ DOM Standard 4: Access to Legal Materials.

¹⁴ See Exhibit A at p. 4-5, ¶ 13.

copy or print information for later use. Sergeant [REDACTED] b6, b7C reported that they do not charge for photocopies. They use part of the proceeds from the telephones to pay for them.

According to the Handbook, the library is available five days a week, eight hours a day.¹⁵ Specific schedules are posted weekly in each dormitory. The library appears to be kept locked and detainees must request to be allowed to use it. Our delegation did not determine whether detainees are subject to restrictions regarding how many hours a week each detainee may use the library. No one was observed using the library during our visit.

IV. Other General Observations Unrelated to the Legal Access Standards

A. Detainee Grievance Procedures

The *Standards* provide that each facility must have a standard procedure for addressing detainee grievances, and must guarantee against reprisals. A detainee should also be able to informally present his concerns verbally to any staff member within five days of the event. Facilities should make provisions to offer translation assistance when requested by a detainee, and illiterate, disabled, or non-English speaking detainees should be provided assistance in filing a formal grievance.¹⁶

The Handbook provides information on the procedure for filing a grievance. It states that the goal is to resolve each grievance on the lowest level possible, a sentiment echoed by jail officials. The Handbook provides that a grievance may be filed concerning (a) medical care, (b) classification actions, (c) program participation, (d) telephone, mail, and visiting procedures, (e) food, clothing, and bedding, (f) commissary, and (g) disciplinary actions, although it states that this is not an exclusive list.¹⁷

The Handbook further provides that in order to file a grievance, an inmate or detainee must request and fill out a grievance form and return it to a correctional officer.¹⁸ It will then be forwarded to the Security Supervisor, who will investigate the grievance and respond within five days. No informal procedure for a verbal grievance is provided in the Handbook, nor did facility officials allude to such a procedure. It appears that the only way to file a grievance is to fill out the specified forms.

According to the Handbook, if the grievance is affirmed, the detainee or inmate will be notified of the corrective action to be taken, and if denied, the inmate or detainee will receive a response in writing (although the Handbook does not provide details on what is to be included in

¹⁵ See Exhibit A at p. 4, ¶ 14.

¹⁶ DOM Standard 18: Detainee Grievance Procedures § III.A.2.

¹⁷ See Exhibit A at p. 7, ¶ 21.

¹⁸ *Id.*

the written response, or whether reasons for the denial must be given).¹⁹ If a grievance is denied and the detainee wishes to appeal, the Handbook provides that he may do so by resubmitting the grievance within five days to be forwarded to the Division Commander.

Lieutenant [b6, b7C] said detainees are protected from reprisals when filing a grievance, though it was not entirely clear what is done to protect the claimant in such a situation. Although officials said they use AT&T Language Line for translation, it appears that there is no formal procedure for offering translation assistance to an inmate seeking to file a grievance. The forms necessary to file a formal grievance are currently available only in English, though Lieutenant [b6, b7C] said that translation help was available if requested.

B. Detainee Handbook

According to the *Standards*, a detainee handbook should be distributed to each detainee upon admission to a facility if they are to be detained there for more than 72 hours, and handbooks should be available in languages other than English.

Oakland City Jail distributes the same handbook to detainees as it provides to other prisoners (the “Information and Rules for Inmates” packet referenced previously). The Handbook is provided at intake, and is apparently only available in English, although it is unclear whether it is available in other languages on request. The Handbook includes information on facility rules, types of disciplinary action that may be taken in response to a violation of the rules, meal procedure, recreation schedule, library schedule, sick call and medical care, visiting hours, procedures for sending and receiving mail, telephone access, grievance procedure, religious services, etc.

C. Medical Care

The *Standards* provide that each facility should maintain accreditation by the National Commission on Correctional Health Care, and that facilities should provide detainees with an initial medical screening on intake, primary medical care, routine dental check-ups, and emergency care. Each facility should have an arrangement with a nearby health care facility for any services not provided on-site.²⁰

The Handbook provides very little information about medical services. It includes only a paragraph stating the times for sick call and the hours nursing care is generally available otherwise.²¹

¹⁹ *Id.*

²⁰ DOM Standard 24: Medical Care § III.A.

²¹ See Exhibit A at p. 4, ¶ 15.

Sick calls take place twice every day at Oakland City Jail, at 7 a.m. and 3 p.m., according to Officer [b6, b7C].²² Also according to Officer [b6, b7C], nursing care is generally available 24 hours a day.²³ The medical clinic staff includes a Registered Nurse (RN) and a Licensed Vocational Nurse (LVN), and a medical doctor visits once a week. Any medical care the staff cannot provide is outsourced to a nearby hospital. Detainees receive cursory dental exams by the clinic staff, and if dental care is needed, the staff requests an off-site dentist visit for the detainee.²⁴ Officer [b6, b7C] said such dentist visits take place routinely.

D. Recreation

According to the *Standards*, detainees should be placed in a facility with access to outside recreation. If the facility does not have an outdoor area, a large recreation room with exercise equipment and access to sunlight should be provided. If neither indoor nor outdoor recreation is available, a detainee is eligible for transfer to a facility providing recreation after 45 days. The *Standards* further provide that a detainee shall have access to recreation for at least one hour daily, five days per week.²⁵

The Oakland City Jail does not have any outdoor recreation facilities. Instead, there is a small gymnasium which contains several tables, a set of weight-training equipment and a treadmill. The jail library is also in this room, separated from the rest of the room by a cage-like structure. The gymnasium, like the rest of the jail, has no windows that face the outside. While the Handbook states that ICE detainees may use the facility twice per week for one and one-half hours at a time,²⁶ the jail staff informed us that in practice, ICE detainees were allowed to use the facility one hour per day. Furthermore, according to the jail staff, while the library is in the same room as the gymnasium, detainees may use the library outside of the hour allotted for recreation, though we were unable to confirm this with the detainees.

E. Religious Practices

The *Standards* provide that detainees shall have access to religious pastors and counselors. Detainees have the right to engage in group religious activities, and each facility should designate a space for religious services. Schedules for such services should be clearly posted in all dorms and on all bulletin boards. Religious headwear is to be permitted and detainees are to be allowed to keep certain personal religious items in their personal property,

²² See also Exhibit A at p. 4, ¶ 15.

²³ However, the Handbook provides that outside of sick calls, nursing care is available from 10:45 p.m. to 6:45 a.m. It is unclear whether, or to what extent, medical care is available during the day outside of sick calls. Presumably Officer [b6, b7C] is referencing the fact that nursing care is available in emergencies 24 hours a day.

²⁴ It appears that the same routine applies to regular inmates housed at Oakland City Jail.

²⁵ DOM Standard 27: Recreation § III.B.1.

²⁶ Per the Handbook, “USINS Inmates” may access the gymnasium from 7:00 - 8:30 p.m., males on Thursdays and Sundays and females on Tuesdays and Saturdays.

such as prayer beads, rosaries, prayer rugs, oils and medallions. Each facility shall accommodate religious and dietary requirements. Finally, religious books and literature should be permitted according to the facility's policies on incoming publications.²⁷

According to the Handbook, the jail conducts nondenominational religious services each Sunday at 8:00 a.m. for men and 9:00 a.m. for women.²⁸ The delegation did not observe any segregated space for other religious services, nor any postings related to such schedules. There are no provisions in the Handbook for meeting with religious representatives, though Sergeant b6, b7C informed the delegation that detainees could request a visit from a religious representative and that such a request would be accommodated, presumably under the same rules as for visitation generally.

According to both the Handbook and jail staff, special diets are accommodated. An incoming detainee specifies his/her request upon being booked.

Finally, there is no specific mention in the Handbook regarding religious books and materials. The Handbook states that books and educational materials for correspondence must be approved by the Division Commander. The inmate must submit a request listing the items needed and their source. All books of any kind must be mailed from an accredited publisher or bookstore, which was confirmed by the jail staff. The Handbook also states that newspapers and magazines are provided by the jail and that an inmate is limited to five publications in his/her possession at any time. It is unclear whether this limit applies to books purchased separately from a publisher. In any event, no detainee is permitted to receive books of any kind from any visitor, including a religious representative.

Overall, requests regarding religious practices and customs appear to be handled on an *ad hoc* basis, and, at least with respect to the requirements for literature, would have to be approved by the Division Commander. As the delegation was unable to speak with any particular detainee, and there is very little mention of religious practices in the Handbook, we were unable to determine substantively whether the religious needs of the detainees are being properly met.

F. Disciplinary Policy

The *Standards* provide that rules of conduct and disciplinary sanctions will be posted in English, Spanish and/or other languages spoken by a significant number of detainees.²⁹ Disciplinary action may not be capricious or retaliatory and should not allow for corporal punishment, deviation from normal food, or deprivation of: clothing, bedding, personal hygiene products, physical exercise, access to legal and family visitation, telephone access, correspondence or access to law libraries. Punishments can range from the withholding of

²⁷ See Exhibit A at p. 5-6, ¶ 17.

²⁸ *Id.* at p. 7, ¶ 24.

²⁹ The Oakland City Jail did not appear to have notices posted in any language other than English, though there may have been notices that we did not see as we moved throughout our tour.

privileges to segregation, which should not exceed 60 days. The facility should have graduated scales of offenses and disciplinary consequences.³⁰

There are no ICE-specific disciplinary policies at the Oakland City Jail. Rather, ICE detainees are subject to the same disciplinary policies as the other inmates. This was confirmed by Sergeant Davis. The Handbook provides the following disciplinary steps, which *may* be imposed “upon violation of any facility rules”:

- a. For a minor first offense, an oral warning along with a reminder of facility rules;
- b. If a detainee has previously received an oral warning or the offense is deemed “substantial” by the Reviewing Officer, the detainee will have a “loss of privileges”, which shall include placement in a single cell for a period not lasting longer than 10 days;
- c. If a detainee has numerous minor violations, or the offense is deemed “serious”, the detainee shall be placed in disciplinary isolation and/or have a disciplinary diet for a duration set by the Reviewing Officer; and
- d. Any offenses committed while in the facility may subject the detainee to criminal prosecution as well.
- e. If a detainee commits any offense, s/he will be told verbally and also receive a copy of an “Inmate Disciplinary Report.”
 - i. An detainee will receive a hearing within three days of the offense;
 - ii. After the hearing, a detainee will be made aware of his/her discipline and receive a copy of the Reviewing Officer’s decision;
 - iii. If the detainee does not agree with the decision, s/he may appeal to the Division Commander within five days.

Facially, the punishments set forth in this policy conform in large part with the *Standards*, save for the potential to affect diet. As described in the “Special Management Unit” section below, jail staff informed us that INS detainees in disciplinary detention had the same rights and privileges under the Handbook as applicable to the general population.

Procedurally, however, the policies in place at Oakland do not appear as robust as the *Standards* lay out. According to the *Standards*, for each infraction, an officer is to prepare a detailed incident report, which should be investigated within 24 hours. The investigating officer should be of a supervisory rank and should not have been involved in the incident. The detainee should get a copy of the report at least 24 hours prior to the start of disciplinary proceedings.³¹ Finally, throughout the course of the disciplinary proceeding, the detainee has the right to remain silent, may attend the entirety of or waive altogether attendance at the hearing, present statements in his/her own defense, appeal the decision and have a staff representative assist in helping prepare a defense.

While the Handbook states that detainees will receive a copy of a formal report, it is not clear whether they receive the report 24 hours prior to their hearing. Nor is it set out whether an

³⁰ DOM Standard 12: Disciplinary Policy § III.I.

³¹ There is no “Unit Disciplinary Committee” at the Oakland City Jail.

investigation occurs, and whether such investigation commences within 24 hours. Most importantly, there is no provision in the Handbook for a detainee to receive assistance in preparing a defense, or for other procedural protections such as the right to remain silent. Detainees do have a right to appeal, however.

Sergeant [b6, b7C] informed us that there are very few disciplinary incidents with the ICE detainees, particularly given their short stay.

G. Special Management Unit

The Oakland City Jail has a separate Special Management Unit (“SMU”) for male and female detainees, each of which is used for both administrative detention and disciplinary detention. The Handbook describes the instances in which a detainee will be placed in the SMU for disciplinary detention:

. . . If you have previously received an oral warning or the offense is deemed to be substantial by the Reviewing Officer, you shall have a loss of privileges, which shall include placement in a single cell for a period lasting no longer than ten days.

. . . If you have numerous minor violations or have committed a first offense deemed serious, you shall be placed in disciplinary isolation and/or have a disciplinary diet for a duration set by the Reviewing Officer.

Officials informed us that detainees are also placed in the SMU when they are being processed and when they have a medical condition that requires their segregation from other detainees. Detainees that are at risk of being harmed by other detainees due to their gang affiliation or sexual orientation, for example, are routinely placed in the SMU. Whenever a detainee’s sexual identity is in question, he or she is placed in the SMU. The jail also permits detainees who feel threatened or intimidated within the cell block to stay in the SMU at their request.

Individuals who are at risk of harming themselves are placed in one of two small cells that have padded walls and floors, called “rubber rooms.” Sergeant [b6, b7C] informed us that individuals placed in a rubber room generally have severe mental health problems and are transferred as quickly as possible to the John George Psychiatric Ward in San Leandro, California for treatment, which is usually within eight hours. The jail staff checks on an individual being held in a rubber room at least every four hours.

Individuals placed in the SMU for administrative detention and disciplinary detention have the same rights to phones, legal and family visitation, the library, exercise, and showers as individuals in the general population. However, the Handbook states that individuals placed in

the SMU for disciplinary reasons may be placed on a “disciplinary diet.”³² Meals are brought from the dining hall to the cells of individuals placed in SMU.

The SMU at the Oakland City Jail provides that individuals placed in administrative and disciplinary segregation should have the same general privileges as the detainees in the general population. Individuals who are placed in a rubber room have their privileges restricted, but only on a temporary basis to facilitate their treatment at an off-site facility.

IV. Conclusion

Overall, the delegation felt that ICE detainees at the Oakland City Jail are treated the same way as the other inmates. In general, jail staff seemed largely unaware that special standards existed for ICE detainees. Consequently, implementation of the *Standards* was inconsistent. Specifically, the following problems were noted by the delegates during the course of the visit:

- Small, understocked, and uncomfortable library with inadequate seating,
- Troubling attitude toward telephone use, viewing it as a privilege rather than as a right, and
- Lack of access to outdoor recreation and/or sunlight.

³² See Exhibit A at p. 11, ¶ 32(c).

Exhibit A

Information and Rules for Inmates