

Facility Name: Bristol County Jail, MA

Date of Tour: August 25th, 2004

Tour Participants: Holland & Knight LLP attorneys

(b)(6)

(b)(6)

ICE Standard	Delegation Observation	Source	ICE Response
<p>Standard 15, Telephone Access</p> <ul style="list-style-type: none"> ▪ Section III. E – Even if telephone service is generally limited to collect calls, the facility shall permit the detainee to make direct calls to [courts, the BIA, legal service providers...] ▪ Section III. K – A detainee’s call to a court, a legal representative, or for the purposes of obtaining legal representation will not be aurally monitored absent a court order. 	<ul style="list-style-type: none"> ▪ The male ward does not have access to free direct calls, only collect call telephones are installed (p6, line 26) ▪ All calls, including legal calls are monitored (p7, line 26) Provision for unmonitored legal calls should be in place and notification thereof 	<ul style="list-style-type: none"> ▪ Delegation observations 	
<p>Standard 1, Access to Legal Materials</p> <ul style="list-style-type: none"> • Section III. M - detainees housed in Administrative Segregation or Disciplinary Segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations 	<ul style="list-style-type: none"> ▪ Males have access to legal research on a computer during waking hours, however, female detainees have very limited access to a law library and this law library does not contain any immigration legal materials (p9, line 26) ▪ Detainees in segregation do not have access to immigration legal materials (p11, line 26) 	<ul style="list-style-type: none"> ▪ Delegation observations 	
<p>Standard 1, Access to Legal Materials</p> <ul style="list-style-type: none"> ▪ Section III. G. - The use of the library should not cause a detainee to miss a meal, recreation time, or any other planned activity; and 	<ul style="list-style-type: none"> ▪ Female detainees must choose between recreation time and the law library (p9, line 25) 	<ul style="list-style-type: none"> ▪ Delegation observations 	

Standard 13, Recreation, Section III B - Under no circumstances will the facility require detainees to forgo basic law library privileges for recreational privileges			
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MEMORANDUM

To: Victor Cerda, Acting Director
Office of Detention and Removal, Immigration and Customs Enforcement

From: American Bar Association Delegation to the Bristol County Jail¹

Date: September 15, 2004

cc: (b)(6)
ABA Commission on Immigration

Re: Report on observations during a general tour of the Bristol County Jail facility

This memorandum summarizes and evaluates information gathered at the Bristol County Jail (“BCJ” or “Jail”) in North Dartmouth, Massachusetts during the delegation’s August 25, 2004 visit to the facility. The information was gathered via observation of the facility by the delegations and interviews with immigration detainees and BCJ personnel.

I. ICE DETENTION STANDARDS

In November 2000, the former Immigration and Naturalization Service (INS),² promulgated the *INS Detention Standards* to ensure the “safe, secure and humane treatment” of immigration detainees. The thirty-six standards contained in the Detention Operations Manual cover a broad spectrum of issues ranging from visitation policies to grievance procedures and food service. These standards apply to ICE-operated detention centers and other facilities that house immigration detainees as part of a contract or intergovernmental service agreement (“IGSA”).

The *Detention Standards* went into effect at ICE-operated detention facilities on January 1, 2001. ICE intended to phase-in the standards in all of its contract and IGSA facilities by December 31, 2002. The *Detention Standards* constitute a “floor” and not a “ceiling” for treatment of immigration detainees. In other words, they are meant to establish the minimal requirements that ICE must adhere to in its facilities. Each Field Office or Officer in Charge (“OIC”) may, in his or her discretion, promulgate policies and practices affording ICE detainees more enhanced rights and protections than those provided for by the *Standards*.

¹ The delegation was comprised of Holland & Knight LLP attorneys (b)(6)
(b)(6) (b)(6)

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

II. INTRODUCTION

A. The Delegation's August 25th Visit

On Wednesday, August 25, 2004, the members of our delegation met with several members of BCJ's staff. Our delegation first met with BCJ Superintendent (b)(6), (b)(7)(c) and Assistant Deputy Superintendent (b)(6), (b)(7)(c). During the course of this meeting and our tour of the facilities, we met with Captain (b)(6), (b)(7)(c), social workers (b)(6) and other BCJ personnel. The delegation appreciates the cooperation of these individuals. They were direct and accommodating during our tour of the facility.

Our report is based on the discussions we had with these BCJ employees, as well as observations of the facility and interviews with five immigration detainees. In many instances, detainee reports were compatible with statements made by facility personnel and/or our observations. In such cases, the delegation was able to determine conclusively whether BCJ policy and procedures was consistent with the implementation of the *Standards*. In certain instances, however, detainee reports conflicted with statements made by facility personnel. Where we were unable to verify conflicting reports, the delegation was unable conclusively to determine effective implementation.

B. General Information About the Bristol County Jail Facility

The Bristol County Jail houses immigration detainees through an intergovernmental service agreement with ICE. According to BCJ personnel, the Jail has the capacity to hold approximately 1,100 inmates. We were informed that at the time of our visit the Jail had a total population of 1,057 inmates, 119 of whom were immigration detainees.

BCJ accommodates mostly male individuals, although there is a separate women's facility. According to BCJ personnel, at the time of our visit, the Jail housed 21 female immigration detainees. The immigration detainees come from over 70 different nations.

BCJ receives \$75.00 per day, per detainee housed at the facility. Assuming an average daily total of 100 immigration detainees, BCJ receives approximately \$225,000 per month under the IGSA contract. According to Superintendent Perroncello, the average length of stay at BCJ for an ICE detainee is eight months.

III. IMPLEMENTATION OF LEGAL ACCESS STANDARDS

A. Legal Access/Visitation

1. Visitation by Attorneys

The *Detention Standards* provide that facilities should allow detainees to meet privately with their current or prospective legal representatives and legal assistants and to meet with their consular officials.³

The BCJ facility has implemented this section of the *Standards*. According to the *BCJ Inmate Orientation, Handbook and Rules*, attorneys are not restricted to the normal hours of visitation.⁴ Attorneys are allowed to visit BCJ immigration detainees at any time, seven days a week. BCJ tries to avoid visits during meal hours, given that this is a very busy time for the Jail, but they will make exceptions for attorneys. In order for an attorney to visit a detainee at BCJ, the attorney must present a bar card and announce that he or she is representing an ICE detainee. The attorney may visit a client without prior notice to the facility (i.e., the attorney need not arrange for the visit in advance), although most attorneys send a letter announcing their intention to visit. According to BCJ personnel, legal assistants, interpreters, and law students are also allowed to visit detainees.

There are three attorney visitation rooms at the facility, one of which includes video/teleconferencing equipment. All attorney visitation areas allow for contact visits. Unlike the booths used for family visits, the attorney visitation rooms do not have Plexiglas dividers to separate the detainees from their attorneys. One detainee reported that she has been subject to strip searches after visits with her attorney.⁵ She also mentioned that she did not have the option of a non-contact visit as a means of avoiding a strip search. None of the other detainees interviewed said that they had been strip searched after an attorney visit.

2. Visitation by Family and Friends

To maintain detainee morale and family relationships, the *Detention Standards* encourage visitation with family and friends.⁶ To that end, the *Standards* require that all detention facilities allow visitation and establish written visitation procedures.⁷ The *Standards* require a minimum of thirty minutes per visitation, under normal conditions,

³ Detention Operations Manual, Detainee Services, Standard 16, Section I.

⁴ “Attorneys shall be allowed to visit their clients as frequently as necessary, within reasonable limits. Attorney (and clergy) visiting is encouraged for all inmates and will not be considered as a regular visiting session.” BCJ Inmate Orientation, Handbook and Rules (“BCJ Inmate Handbook”), p. 4. The BCJ Inmate Handbook is available in English, Spanish, and Portuguese.

⁵ Notes of delegation members (b)(6)

⁶ Detention Operations Manual, Detainee Services, Standard 16, Section I.

⁷ Detention Operations Manual, Detainee Services, Standard 16, Section III.A.

and encourage more generous limits when possible.⁸ The facility must allow visitation by immediate family members and other relatives, friends, and associates.⁹ As to minor visitors, the *Standards* provide that:

At facilities where there is no provision for visits by minors, [ICE] will arrange for a visit by children and stepchildren, on request, within the first 30 days. After that time, on request, [ICE] will consider a transfer, when possible, to a facility that will allow such visitation. Monthly visits will be continued on request if a transfer is not, [sic] approved, available or until effected.¹⁰

Moreover, the ICE Model Detainee Handbook (although not provided to detainees at BCJ) adds that visitors under 18 years of age “are expected to remain under the direct supervision of” adult visitors.¹¹ Visitors are to be allowed both during the week and on weekends, and “to the extent practicable, the facility shall accommodate the scheduling needs of visitors for whom weekends and holidays pose a hardship.”¹² The ICE Model Detainee Handbook does not provide for a minimum or maximum number of visitors who can visit a detainee.

BCJ has almost fully implemented this section of the *Standards*. BCJ provides for family and friend visitation, which are detailed in the BCJ Inmate Handbook. Detainees appear to be given nearly four hours of visitation every week,¹³ which surpasses the 30-minute minimum required under the *Standards*. Detainees are also permitted to split their visitation time among several visitors, and they may see up to two adult and two minor visitors during visiting hours.¹⁴

Under BCJ policy, however, only registered visitors are permitted to visit detainees, and only five adult visitors may be registered at any one time.¹⁵ In addition, minor children of detainees are only allowed if the BCJ has a notarized Minor Visit Consent Form for the child. This policy may present a hardship for families containing more than five adults, as well as for family members who want to visit but who are not registered. It also makes visitation difficult for detainees who have more than two minor children. A detainee must remove a person’s name from the visitor’s list in order to

⁸ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.1.

⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.2.

¹⁰ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.2.d.

¹¹ Detention Operations Manual, Detainee Services, Attachment to Standard 5, Visitation Section.

¹² Detention Operations Manual, Detainee Services, Standard 16, Section II, H.1.

¹³ Visiting hours, according to two detainees, are Wednesdays from 7:00 p.m. to 9:00 p.m. and Sundays from 1:00 p.m. to 2:45 p.m. Notes of delegation members (b)(6). Another detainee thought the visiting hours were Wednesdays from 2:00 p.m. to 5:00 p.m. and Sundays from 1:00 p.m. to 9:00 p.m. Notes of delegation members (b)(6). Yet another detainee thought that family and friends could only visit on Wednesdays. Notes of delegation members (b)(6) and (b)(6). This restriction does not apply to attorneys or clergy.

¹⁴ BCJ Inmate Handbook, p. 4.

¹⁵ “You will be allowed to have five (5) adult visitors, which will be screened by staff and approved by the facility Deputy Superintendent. You may change these names on a quarterly basis by completing an Adult Visit Form.” BCJ Inmate Handbook, p. 4.

include a previously unlisted person. Moreover, by only permitting detainees to alter their visitor lists quarterly, the policy does not allow for guests unexpected by the detainee, and changes to the visitor's list take some time to go into effect. At least one detainee has had problems getting visitors registered.¹⁶ It is unclear, furthermore, whether arrangements can be made if normal visiting hours and visitation restrictions pose an unusual hardship for family members, and if they can, whether detainees are aware of this possibility. One detainee said that family members have this option, but it is not mentioned in the BCJ Inmate Handbook.¹⁷ Moreover, she was the only detainee interviewed who thought that special visiting arrangements could be made.

The delegation is also troubled by the fact that all visits with family and friends are non-contact.¹⁸ While the delegation understands that contact visits pose a potential security risk for the detainees and other inmates, the delegation is concerned that detainees may not have contact with their children. Visitations are held in a room divided by Plexiglas partitions into a number of visitation booths, with thick walls of Plexiglas separating detainees from their visitors. Detainees and their visitors may speak to each other only via the telephone handsets provided in each booth. This environment makes it difficult for detainees to maintain some semblance of a normal parental relationship with their children. Contact visits would allow children to feel closer to their parents and, in accordance with the *Standards*, would help maintain detainee morale and family relationships.¹⁹

B. Telephone access

The *Detention Standards* require facilities holding ICE detainees to "permit them to have reasonable and equitable access to telephones."²⁰ In order to meet this requirement, facilities must provide at least one telephone for every 25 detainees and written telephone access rules to each detainee.²¹

BCJ has implemented this section of the *Standards*. Each housing unit has its own set of telephones, providing approximately eight phones per sixty inmates. The telephones are operational between the hours of 8:00am and 10:00pm. Detainees may access the telephones at any time during the hours of operation except during "feed" and "count" and other lockdown times. Detainees in segregated units also have access to telephones.

¹⁶ Notes of delegation members [REDACTED]

(b)(6)

¹⁷ Notes of delegation members [REDACTED]

(b)(6)

¹⁸ Although this rule is not listed in the BCJ Inmate Handbook, Superintendent [REDACTED] told the delegation that it was BCJ policy. This statement was reinforced by comments from the detainees. Notes of delegation members [REDACTED]

(b)(6)

¹⁹ Detention Operations Manual, Detainee Services, Standard 16, Section I.

²⁰ Detention Operations Manual, Detainee Services, Standard 15, Sections I & III.A.

²¹ Detention Operations Manual, Detainee Services, Standard 15, Sections III.B. & C.

1. Direct v. Collect Calls

According to the *Standards*, a facility may generally restrict telephone service to collect calls, but it must permit detainees to make direct calls to a number of organizations, including the local immigration court, the Board of Immigration Appeals, Federal and State courts, consular officials, legal service providers, and relevant government offices.²² Detainees must also be able to make direct calls to family members when a "compelling need" arises.²³ The facility shall not require indigent detainees to pay for the types of calls listed above if they are local calls, nor for non-local calls if there is a compelling need.²⁴ Moreover, regardless of whether the detainee is indigent, the facility must provide a detainee with the ability to make calls to the ICE-approved list of legal service providers and consulates at no charge to the detainee or the receiving party.²⁵

The delegation is concerned about the facility's implementation of this section of the *Standards*. According to one detainee interviewed, there is a lack of access to free telephone calls to these facilities.²⁶ Apparently all of the telephones, at least in the men's ward, are collect call only telephones. However, social workers did assist some detainees in making collect calls from their offices.²⁷ Further, there is no privacy even during telephone conversations with a detainee's attorney; the BCJ policy is that *all* calls may be monitored.²⁸ Superintendent (b)(6), (b)(7)c remarked, however, that in reality calls generally are not monitored due to staffing reasons.²⁹ At BCJ, the phones only permit detainees to make domestic collect calls.³⁰ Detainees can call the listed facilities from the detainee officer's office, but only with his permission. The delegation understands that many persons, companies and organizations do not accept collect calls from BCJ, including many attorneys and most pro bono and immigration advocacy organizations.³¹ Due to the way the phones are set up, detainees are also effectively prohibited from calling their families overseas.³²

2. Privacy and Telephone Usage Restrictions for Legal Phone Calls

²² Detention Operations Manual, Detainee Services, Standard 15, Section III.E.

²³ Detention Operations Manual, Detainee Services, Standard 15, Section III.E.

²⁴ Detention Operations Manual, Detainee Services, Standard 15, Section III.E.

²⁵ Detention Operations Manual, Detainee Services, Standard 15, Section III.E.

²⁶ Notes of delegation members (b)(6) and b6

²⁷ Notes of delegation members (b)(6) and b6

²⁸ Notes of delegation member (b)(6)

²⁹ Notes of delegation member (b)(6)

³⁰ Notes of delegation members (b)(6) and b6

³¹ Notes of delegation members (b)(6) and b6

³² Superintendent (b)(6), (b)(7)c commented, however, that detainees may call overseas for free in the case of an emergency. This remark was unconfirmed by the detainees interviewed. Notes of delegation member

(b)(6)

The *Standards* provide two sets of rules regarding telephone usage restrictions.³³ One set of rules governs calls regarding legal matters, while the other set governs calls unrelated to legal matters. With respect to legal phone calls, the *Standards* provide:

The facility shall not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes, and the detainee shall be allowed to continue the call if desired, at the first available opportunity.³⁴

Further, the facility must ensure privacy for all detainee phone calls regarding legal matters. The facility must provide a reasonable number of telephones on which detainees can make such calls without being overheard by officers, other staff, or other detainees.³⁵ The *Standards* also explicitly prohibit the facility and its personnel from monitoring or recording telephone calls on legal matters, absent a court order.³⁶

The BCJ facility has not implemented this section of the *Standards*. First, BCJ conflicts with the *Standards* by preventing detainees from making legal phone calls without being overheard by BCJ personnel and other detainees. The telephones in each housing unit are not private, but are located in open areas. No privacy panels are installed, nor are there areas designated for telephone calls to ensure privacy. At the very least, there is no doubt that detainee phone conversations can be heard by other detainees and inmates in the same housing unit. Second, all calls are monitored.³⁷ The practice of monitoring calls is particularly troubling to the delegation, as it would necessarily interfere with attorney-client relationships and confidentiality. Third, although the *Standards* allow for restrictions on the duration of legal phone calls, such restrictions are allowed only if necessary for “security purposes or to maintain orderly and fair access to telephones.” It is unclear whether such restrictions are necessary at BCJ. At the time that the delegation toured the facility, none of the telephones were in use.

3. Privacy and Telephone Usage Restrictions for Other Calls

As for telephone calls not related to legal matters, the facility may restrict the number and duration for such calls for the following reasons only:

1. availability (e.g. the usage demands of other detainees);
2. orderly operation of the facility (e.g. scheduled detainee movements, court schedules, meals, counts, etc.); and

³³ Detention Operations Manual, Detainee Services, Standard 15, Section III.F.

³⁴ Detention Operations Manual, Detainee Services, Standard 15, Section III.F.

³⁵ Detention Operations Manual, Detainee Services, Standard 15, Section III.J.

³⁶ Detention Operations Manual, Detainee Services, Standard 15, Section III.J.

³⁷ Notes of delegation member (b)(6)

3. emergencies (e.g. escapes, escape attempts, disturbances, fires, power outages, etc.).³⁸

The *Standards* also provide that a facility may monitor all detainee phone calls of a non-legal nature.³⁹ If a facility monitors calls, it must notify detainees upon admission and place a notice at each monitored telephone.⁴⁰ The notice must state that detainee calls are subject to monitoring and must provide the procedure for obtaining an unmonitored call for legal purposes.⁴¹

The BCJ facility has not fully implemented this section of the *Standards*. First, and as noted above, it is unclear whether telephone usage restrictions are necessary at BCJ. The telephones did not seem to be in high demand when the delegation toured the facility. Second, although the facility notifies detainees about BCJ's monitoring policy, neither the BCJ Inmate Handbook nor the signs next to the telephones provide the procedure for obtaining an unmonitored call for legal purposes.

4. Incoming Calls and Messages

The *Detention Standards* require facilities to take and deliver messages from emergency and non-emergency incoming telephone calls to detainees as promptly as possible.⁴² If the facility receives an *emergency* telephone call for a detainee, the facility is required to obtain the caller's name and telephone number and permit the detainee to "return the emergency call as soon as reasonably possible."⁴³ Moreover, the facility must enable indigent detainees to make free return emergency calls.⁴⁴

BCJ has not implemented this section of the *Standards*. BCJ does not have a formal procedure in place for taking and delivering non-emergency phone messages to the detainees. According to the detainees interviewed, only legal messages are delivered consistently.⁴⁵ One detainee reported that he receives all messages, both legal and non-legal, in a timely fashion,⁴⁶ but two others said that they do not receive any messages at all.⁴⁷ BCJ officials state that they accept and deliver phone messages to the detainees. It is unclear, however, whether the facility allows indigent detainees to return these calls free of charge.

³⁸ Detention Operations Manual, Detainee Services, Standard 15, Section III.F.

³⁹ Detention Operations Manual, Detainee Services, Standard 15, Section III.K.

⁴⁰ Detention Operations Manual, Detainee Services, Standard 15, Section III.K.

⁴¹ Detention Operations Manual, Detainee Services, Standard 15, Section III.K.

⁴² Detention Operations Manual, Detainee Services, Standard 15, Section III.I.

⁴³ Detention Operations Manual, Detainee Services, Standard 15, Section III.I.

⁴⁴ Detention Operations Manual, Detainee Services, Standard 15, Section III.I.

⁴⁵ Notes of delegation members

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⁴⁶ Notes of delegation members

(b)(6)

⁴⁷ Notes of delegation members

(b)(6)

C. Access to Legal Materials

The *Detention Standards* provide that 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.⁴⁸

The BCJ facility has implemented some sections of the *Standards* regarding access to legal materials. Access to legal materials, however, is not uniform between male and female detainees. In general BCJ fails to provide immigration detainees with meaningful access to legal materials.

1. Access to the Library

The *Detention Standards* require that a facility devise a flexible schedule to permit all detainees, regardless of housing or classification, to use the law library on a regular basis for a minimum of five hours per week.⁴⁹ The use of the library should not cause a detainee to miss a meal, recreation time, or any other planned activity.⁵⁰

The BCJ facility appears to have implemented this section of the *Standards*. The BCJ facility permits detainees to use the library every day of the week. However, as stated above, the "library" consists of one computer workstation per housing unit.⁵¹ Male detainees can use the computer all day except during lockdown periods. There are about eleven lockdowns per day and the longest lockdown occurs during lunch hours. Superintendent Perroncello stated that the detainees could use the computer workstation for eight to ten hours a day.⁵² Questions remain, however, because there is only one computer per housing unit and there appears to be no organized method of signing up to use the computer so that all detainees have equal access to it. On the other hand, female detainees can have access to the library only during the recreation period and have to choose between use of the library or recreation.⁵³

2. Library Conditions

The *Standards* require that the facility provide a law library in a designated room with sufficient space to facilitate detainee's legal research and writing.⁵⁴ The library shall contain a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas.⁵⁵ In addition, the BCJ Inmate Handbook states that inmate legal resources are provided by "BCSO Computer Legal Research Systems... located in the Inmate Law Library and in designated housing units or areas."⁵⁶

⁴⁸ Detention Operations Manual, Detainee Services, Standard 1, Section I.

⁴⁹ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁵⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁵¹ Notes of delegation member

⁵² Notes of delegation member

(b)(6)

⁵³ Notes of delegation member

⁵⁴ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

⁵⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

⁵⁶ BCJ Inmate Handbook, pg. 3.

BCJ has not implemented this section of the *Standards*. As stated above, there is no Inmate Law Library and the computer workstations do not appear to have sufficient space for a detainee to conduct legal research and write down notes. Superintendent Perroncello mentioned that it was more cost effective to bring the library to the detainees rather than to have a central library.⁵⁷ The "library" that is available to the detainees, however, is limited to one computer workstation with Lexis Nexis access. Each unit has one computer regardless of the number of detainees housed in a unit.⁵⁸ For example the Gymnasium houses 54 detainees (as of August 25, 2004) and there is only one computer for the use of all detainees.⁵⁹ The female unit had a small "library" with one computer available for all detainees. The delegation observed that a detainee could not have privacy to do legal research or to review and read legal materials in a space isolated from noisy areas.

3. Materials Identified in the *Detention Standards*

The *Detention Standards* provide that the library shall contain materials listed in Attachment A to the chapter on Access to Legal Materials and that ICE shall provide for an initial set of these materials.⁶⁰ These materials must be updated regularly and information must be added on significant regulatory and statutory changes regarding detention and deportation of aliens in a timely manner.⁶¹ Damaged or stolen materials must be promptly replaced.⁶² In addition, the *Standards* require that the facility post a list of holdings in the law library and designate an employee with responsibility for updating materials, inspecting them weekly, and maintaining them in good working order.⁶³

The BCJ law library has not implemented this *Standard*; the delegation observed that only one of the male housing units had some legal materials available. The available legal materials include: Interpreter Releases, Administrative Decisions Under INS laws, Black's Law Dictionary, and Bender's Immigration Legislative Case Reporter. A list of the available holdings is posted near the computer workstation and detainees and inmates have to request legal books from the facility's librarian, (b)(6).⁶⁴ The Gymnasium where 54 detainees are being held does not have any legal research materials in print and a list of available materials is not posted near the computer workstation.⁶⁵

A brief review of the legal materials available in one of the male housing units revealed that many required materials were outdated or entirely missing. For example, texts on immigration law and defense, guides for immigration advocates, country reports on human rights practices for asylum seekers, other asylum and refugee materials as well

⁵⁷ Notes of delegation member (b)(6)

⁵⁸ Observation of delegation member (b)(6)

⁵⁹ Observation of delegation member

⁶⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

⁶¹ Detention Operations Manual, Detainee Services, Standard 1, Sections III.D-F.

⁶² Detention Operations Manual, Detainee Services, Standard 1, Section III.F.

⁶³ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

⁶⁴ Statement of Guard. Statement of male detainee interviewed.

⁶⁵ Notes of delegation member (b)(6)

as the ICE Model Detainee Handbook and "Know Your Rights" were missing.⁶⁶ The computer did have a database with country reports on human rights but detainees who are not computer literate are not able to access this material. Upon asking who was in charge of updating the books, Superintendent (b)(6), (b)(7)c mentioned that ICE is in charge of sending updates.⁶⁷ Some of the immigration law books were last updated in 2001.⁶⁸ No BCJ employee is assigned to organize, update, and request legal materials.⁶⁹ The role of the librarian, (b)(6), is not clear in this regard. The delegation was told that the librarian is able to print cases for detainees and circulate books that detainees request and that detainees can also make book requests to social worker (b)(6).⁷⁰

The *Standards* require that detainees housed in Administrative Segregation or Disciplinary Segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations.⁷¹ **BCJ has not implemented this section of the *Standards*.** Housing units ED/EE, used for inmates and detainees awaiting disciplinary sanctions and to house inmates who have been sanctioned, have one computer workstation for use by all detainees.⁷² A brief review of the materials available in the computer revealed that there were no Lexis Nexis access or immigration law materials of any kind.⁷³ Thus a detainee placed in either of these housing units would not have access to legal materials and it is not clear if the detainee would be able to request and receive legal materials from the librarian because a list of available materials was not posted near the computer workstation.

The female housing unit only had a set of Massachusetts General Laws available and did not have any legal research materials in print related to immigration law.⁷⁴ The delegation was informed that immigration materials are available to detainees upon request from librarian (b)(6).⁷⁵ *With so many missing materials, the delegation believes that an immigrant with a valid defense to removal or a valid claim to asylum would find it extremely difficult, if not impossible, to prepare his or her case pro se.*

4. Equipment

The *Detention 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.⁷⁶ As stated above, BCJ has only one computer per housing unit. The computers are read-only, stand-alone computer

⁶⁶ Notes of delegation member (b)(6)

⁶⁷ Notes of delegation member (b)(6)

⁶⁸ Notes of delegation member (b)(6)

⁶⁹ Notes of delegation member (b)(6)

⁷⁰ Notes of delegation member (b)(6)

⁷¹ Detention Operations Manual, Detainee Services, Section III.M.

⁷² Observation of delegation member (b)(6)

⁷³ Notes of delegation member (b)(6)

⁷⁴ Notes of delegation member (b)(6)

⁷⁵ Notes of delegation member (b)(6)

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

workstations. There were no writing implements, paper or office supplies around the computers and a detainee is not allowed to save his/her research on a floppy disk.⁷⁷

One of the male housing units and the female housing unit had each one typewriter available for detainee use. Detainees housed in the Gymnasium do not have a typewriter located nearby.⁷⁸ The male detainee questioned confirmed that there was only one typewriter for two housing units.⁷⁹

The *Standards* also require the facility to appoint an employee with responsibility to inspect the equipment and to stock sufficient supplies.⁸⁰ **The BCJ facility has not implemented this Standard; the male housing units do not have a designated employee responsible for the inspection and maintenance of the equipment.**⁸¹ The BCJ facility has one librarian, (b)(6) but it was not clear whether he is in charge of inspecting the computers and making sure that there are sufficient supplies in stock and available to the detainees. BCJ social worker (b)(6) informed the delegation that the female housing unit has a volunteer librarian that is available to help detainees as needed. It is not known, however, if the volunteer librarian is able to help detainees with legal research.

5. Photocopies

The *Detention Standards* provide that each facility shall ensure that detainees can obtain photocopies of legal materials and that facility personnel may not read a document that on its face is clearly related to a legal proceeding involving the detainee.⁸² Enough copies must be provided so that a detainee can fulfill court procedural rules and retain a copy for his or her records.⁸³

The BCJ facility meets this section of the Standards; however, concerns remain. In order to obtain copies of any legal materials, detainees must fill out a copy request form. The delegation was told that detainees did not pay for photocopies of legal materials.⁸⁴ There was a sign, however, on the female housing unit stating that copies were 20 cents each. In addition, the male detainee interviewed confirmed that copies were available at 20 cents with a sixty page limit.⁸⁵ The delegation was told by the guards and by Superintendent Perroncello that there was no limit on the number of photocopies that detainees could request, clearly in conflict with the detainee's declaration. On the other hand, female detainees interviewed stated that documents could

⁷⁷ Notes of delegation member (b)(6)

⁷⁸ Observation of delegation member (b)(6)

⁷⁹ Notes of delegation members (b)(6)

⁸⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

⁸¹ Notes of delegation member (b)(6)

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

⁸³ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

⁸⁴ Notes of delegation members (b)(6)

⁸⁵ Notes of delegation member (b)(6)

be photocopied with BCJ social worker (b)(6) assistance and that the number allowed is unlimited.⁸⁶

6. Assistance to Illiterate and Non-English Speakers

The *Standards* state that unrepresented illiterate or non-English speaking detainees who wish to pursue a legal claim related to their immigration proceedings or detention must be provided with more than access to a set of English language law books.⁸⁷

The BCJ facility does not meet this section of the *Standards*. All of the legal materials available and non-legal materials available in the housing units are in English.⁸⁸ The required Spanish-English Law Dictionary was missing from male and female housing units.⁸⁹ Other translation dictionaries were also missing. Superintendent Perroncello mentioned that a large part of the detainee population was Brazilian, yet none of the books available are in Portuguese.⁹⁰ In addition, instructions on how to use the computer workstation are in English, and all of the databases available in the computer are in English as well.⁹¹ *Thus a detainee that does not speak English is unable to utilize any of the legal materials or access the computer workstations.* Female detainees interviewed mentioned that detainees help each other with translation and filling out forms and requests but it is not clear if they are able to help each other with legal documentation.⁹²

D. Group Rights Presentations

The *Detention Standards* provide that facilities shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures consistent with the security and orderly operation of an ICE facility.⁹³ At least 48 hours before a scheduled presentation, informational posters shall be prominently displayed in the housing units.⁹⁴ The facility shall permit presenters to meet with small groups of detainees to discuss their cases following a group presentation.⁹⁵

The BCJ facility appears to have substantially implemented this section of the *Standards*. No BCJ personnel and only one of the detainees could identify a particular group rights presentation ("GRP").⁹⁶ BCJ staff indicated that detainees were advised by word-of-mouth of GRPs.⁹⁷ This issue appears to be mitigated by the access

⁸⁶ Notes of delegation members (b)(6)
⁸⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.L.
⁸⁸ Notes of delegation member (b)(6)
⁸⁹ Notes of delegation member (b)(6)
⁹⁰ Notes of delegation member (b)(6)
⁹¹ Notes of delegation member (b)(6) and (b)(6)
⁹² Notes of delegation member (b)(6)
⁹³ Detention Operations Manual, Detainee Services, Standard 9, Section I.
⁹⁴ Detention Operations Manual, Detainee Services, Standard 9, Section III.C.
⁹⁵ Detention Operations Manual, Detainee Services, Standard 9, Section III.G.
⁹⁶ Notes of delegation member (b)(6)
⁹⁷ Notes of delegation member (b)(6)

the detainees have to the BCJ social workers, who make the GRP known to the detainees. According to BCJ personnel, there are no restrictions on GRPs.⁹⁸ The detainee who participated in the GRP recalled meeting with the presenters after the presentation.⁹⁹ Another detainee noted that *pro bono* attorneys and paralegals come to the facility periodically and meet with the detainees to discuss their cases.¹⁰⁰ None of the detainees interviewed or BCJ personnel were aware of “Know Your Rights” either as a group rights presentation or video.

IV. OTHER PROVISIONS OF THE ICE DETENTION STANDARDS

A. Site-Specific Detainee Handbook

The *Detention Standards* require that all detention facilities have a site-specific handbook for immigration detainees. The purpose of the handbook is to provide an overview of, and guide to, “the detention policies, rules, and procedure in effect at the facility,” as well as “the services, programs, and opportunities available through various sources, including the facility, [ICE], private organizations, etc.”¹⁰¹ The handbook must be translated into Spanish, and, if appropriate, into the next most-prevalent language(s) among the facility’s detainees.¹⁰² All detainees are to receive a copy of the handbook upon admission to the facility.¹⁰³

BCJ has not fully implemented this section of the *Standards*. At intake, immigration detainees are given copies of the BCJ Inmate Handbook.¹⁰⁴ This handbook meets the definition of a “site-specific handbook” and provides an adequate overview of the policies, rules, and procedures generally in effect at BCJ. The handbook is available in English, Spanish, and Portuguese.

Although the handbook correctly describes many of the rules and procedures generally in effect at BCJ, the handbook does not adequately describe the policies, rules, services, programs, and rights available to immigration detainees under the *Detention Standards*. Indeed, in one instance, the BCJ Inmate Handbook misleads immigration detainees as to their rights:

- although the *Standards* require free medical services and medication for immigration detainees, the handbook states that all inmates (other than indigent inmates) will be billed for medical services and medication and that these charges will be deducted from their accounts (p. 2).

B. Recreation

⁹⁸ Notes of delegation member

⁹⁹ Notes of delegation member

¹⁰⁰ Notes of delegation member

¹⁰¹ Detention Operations Manual, Detainee Services, Standard 5, Section I.

¹⁰² Detention Operations Manual, Detainee Services, Standard 5, Section III.E.

¹⁰³ Detention Operations Manual, Detainee Services, Standard 5, Section I.

¹⁰⁴ To the delegation’s knowledge, the BCJ Inmate Handbook is not modeled on the ICE Detainee Handbook.

The *Detention Standards* require that all facilities provide immigration detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare.¹⁰⁵ If, as at the BCJ, outdoor recreation is available at the facility, "each detainee shall have access for at least one hour daily, at a reasonable time of day, five days a week, weather permitting."¹⁰⁶ All facilities shall also have an individual responsible for the development and oversight of the recreation program.¹⁰⁷ "Under no circumstances will the facility require detainees to forgo basic law library privileges for recreational privileges."¹⁰⁸ The *Standards* include such requirements as "[e]xercise areas will offer a variety of fixed and movable equipment;" "recreational activities may include limited-contact sports;" and "[d]ayrooms in general-population housing units will offer board games, television, and other sedentary activities."¹⁰⁹

The BCJ facility partially meets the *Standards* regarding recreational programs and activities. Male detainees are given two hours of outdoor recreation (one hour morning and one hour afternoon) seven days a week.¹¹⁰ Female detainees are only given one hour of outdoor recreation seven days a week.¹¹¹ No fixed or movable equipment, aside from various types of game balls (of limited supply), are provided for outdoor recreation.¹¹² The dayrooms did include a variety of board games, cards, and pleasure books, although nearly all of the pleasure books are in English.¹¹³ BCJ personnel volunteered that they have had trouble with their new television system. Additionally, Superintendent (b)(6), (b)(7)c confirmed that the facility employed neither a recreation specialist nor a recreation assistant.

According to BCJ personnel, detainees in specialized management units were given one hour of outdoor recreation a day. Their outdoor area was a small caged area that appeared too confining for anything other than in-place exercise.

Superintendent (b)(6), (b)(7)c indicated that they had just become aware that the facility could not require the detainees to choose between recreation and basic law library privileges and that they were in the process of implementing this aspect of this *Standard*.

C. Medical Treatment

The *Detention Standards* require that all detainees have access to medical services that promote detainee health and general well-being.¹¹⁴ Each facility is required to perform an initial medical screening on new arrivals, and to have medical personnel and

¹⁰⁵ Detention Operations Manual, Detainee Services, Standard 13, Section I.

¹⁰⁶ Detention Operations Manual, Detainee Services, Standard 13, Section III.B.1.

¹⁰⁷ Detention Operations Manual, Detainee Services, Standard 13, Section III.F.

¹⁰⁸ Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

¹⁰⁹ Detention Operations Manual, Detainee Services, Standard 13, Section III.G.

¹¹⁰ Notes of delegation members

¹¹¹ Notes of delegation members

¹¹² Notes of delegation member

¹¹³ Notes of delegation member

¹¹⁴ Detention Operation Manual, Health Services, Standard 2, Section I.

facilities available to provide for the medical needs of the detainees.¹¹⁵ Each facility is required to have regularly scheduled times, known as sick call, when medical personnel are available to see detainees who have requested medical services.¹¹⁶ Facilities must also have procedures in place to provide emergency medical care for detainees who require it.¹¹⁷

BCJ appears to meet these Standards. It maintains a central health care facility in its administration building. The full time staffing of the health center includes three nurses, one physician, one nurse practitioner/physician assistant, one nurse manager, three mental health clinicians, one director of nurses, and one administrator. In addition, staff includes a phlebotomist, an x-ray technician two times per week, and a dentist and dental assistant, three times per week.¹¹⁸ The health center has specialty clinics in orthopedics and surgery on a monthly basis and a weekly optometry clinic. Every other week, there is an infectious disease clinic.¹¹⁹ The evening staffing is three nurses; during the nightshift, there is one nurse on duty.

A medical doctor, psychiatric professional and dentist are on call twenty-four hours per day. The facility has emergency room arrangements with nearby St. Luke's Hospital in New Bedford, MA; routine hospitalization is at Shattuck Hospital in Jamaica Plain, MA.¹²⁰

The facility's medical center is certified and accredited by the National Commission on Correctional Health Care. The health care services are outsourced by contract with Prison Health Services, a national firm specializing in provision of health care in correctional facilities.¹²¹

On intake, each ICE detainee is given a preliminary health screening, which includes a questionnaire for determination of all current medications, and a complete health history. In addition, each detainee gets a urinalysis, an oral screen, and a mental health assessment. Any medications identified in the intake health questionnaire are confirmed with the prescribing physician. The facility provides all confirmed continuing medication to the detainees without charge. There is no charge for any other medical, psychological or dental care provided to the detainees.¹²²

Within fourteen days of intake, each detainee undergoes a complete physical examination by the medical director, Dr. (b)(6).¹²³ The physical examination includes CBC (complete blood count), RPR (syphilis test), and PPD (tuberculosis). HIV test is offered on intake; detainees are not required to report whether they are HIV

¹¹⁵ Detention Operation Manual, Health Services, Standard 2, Section D.

¹¹⁶ Detention Operation Manual, Health Services, Standard 2, Section III.F.

¹¹⁷ Detention Operation Manual, Health Services, Standard 2, Sections III.A. & G.

¹¹⁸ Notes of delegation member

¹¹⁹ Notes of delegation member

¹²⁰ Notes of delegation member

¹²¹ Notes of delegation members

¹²² Notes of delegation member

¹²³ Notes of delegation members

positive. Those detainees who are HIV positive are not segregated or dealt with in any fashion differently from other detainees.¹²⁴

The procedure for a detainee to obtain medical attention is to fill out a "sick slip."¹²⁵ The sick slip is given to the officer in charge of the residential unit, who forwards it to the health center. On receipt of sick slip (or if requested spontaneously by an officer in a residential unit), a nurse will be dispatched to the housing unit to conduct a triage examination. Based on the on-site evaluation, the detainee will be directed to such further care as appropriate. That may be simply on-site treatment by the nurse, or referral to the health center for attention by a nurse practitioner-physician assistant, or the medical director.¹²⁶

One concern regarding medical care arises from comments made by two detainees during interviews. A male detainee asserted that the time between submitting a sick slip and being seen by a nurse is two weeks, and that an additional two weeks will elapse before a physician can be seen (if that is the triage nurse's recommendation).¹²⁷ A female detainee also stated that on one occasion she had to wait two weeks to be seen for a complaint of chest pains.¹²⁸ A two week delay in being seen after submission of a sick slip is clearly inadequate, and inconsistent with the *Standards*.

Another concern relates to medications. One detainee was refused a renewal of a prescription medication on the basis that the condition for which he was taking the medication was not life-threatening.¹²⁹ This, again, is inconsistent with the *Standards*. There is nothing in the *Detention Standards* that limits allowable medication to those for life-threatening health conditions.

D. Dental Treatment

The *Detention Standards* require an initial dental screening exam within fourteen days of the detainee's arrival at the facility.¹³⁰ The facility must provide dental services, including emergency dental treatment; for detainees held in detention longer than six months, routine dental treatment must be provided.¹³¹

The BCJ facility appears to have fully implemented these *Standards*. According to BCJ personnel, detainees are provided with full dental care, with the exception of routine dental cleaning. The demand for dental care is such that there is approximately a two month waiting period for a dental visit; upon confirmation of a need for a full dental appointment, there is approximately a five month waiting period.

¹²⁴ Notes of delegation member

(b)(6)

¹²⁵ Notes of delegation members

(b)(6)

¹²⁶ Notes of delegation member

¹²⁷ Notes of delegation members

(b)(6)

¹²⁸ Notes of delegation members

¹²⁹ Notes of delegation members

¹³⁰ Detention Operation Manual, Health Services, Standard 2, Section III.E.

¹³¹ Detention Operation Manual, Health Services, Standard 2, Section III.E.

E. Detainee Classification

The *Detention Standards* require that detention facilities use a classification system and physically separate detainees in different categories.¹³² IGSA facilities, such as BCJ, “may continue using the systems established locally, if the classification criteria are objective and all procedures meet [ICE] requirements.”¹³³ A detainee's classification is to be made on "objective" information, including criminal offenses, escape attempts, institutional disciplinary history, violent incidents, etc.¹³⁴ Classification is required in order to separate detainees with no or small criminal records from inmates with serious criminal records.¹³⁵

The BCJ facility has not fully implemented this section of the *Standards*. BCJ classifies detainees in three levels. Level 1 (lowest risk), Level 2 (medium risk) and Level 3 (High risk).¹³⁶ Classifications are decided by the Classification Board with whom the detainees meet upon arrival at the facility.¹³⁷ All the female detainees are housed together, however, and it appears that they are not classified, in contradiction of the *Detention Standards*.¹³⁸ Female detainees interviewed did not know their classification and were not aware that a classification process existed.¹³⁹ One of the detainees interviewed stated that all female detainees are classified in the same category and housed together.¹⁴⁰ Female detainees do not mix with female inmates although detainees interviewed stated that during lunch they can mingle with inmates at the food line and eat at the same place separated by a barrier.¹⁴¹

Male detainees appear to be housed all together regardless of classification, although the Gymnasium only houses ICE detainees and the first floor of another male housing unit is comprised solely of ICE detainees.¹⁴² One of the interviewed detainees stated that he believed that there was some co-mingling between detainees and inmates.¹⁴³

The BCJ facility does not explain the classification system in the BCJ Inmate Handbook. The Handbook states that the upon arrival the detainee shall meet with the classification board for an initial classification and housing placement.¹⁴⁴ In addition the handbook states that a classification review takes place every sixty days thereafter.¹⁴⁵

¹³² Detention Operations Manual, Detainee Services, Standard 3, Section I.

¹³³ Detention Operations Manual, Detainee Services, Standard 3, Sections I & III.A.

¹³⁴ Detention Operations Manual, Detainee Services, Standard 3, Section I.

¹³⁵ Detention Operations Manual, Detainee Services, Standard 3, Sections III.A & III.E.

¹³⁶ Notes of delegation member

¹³⁷ Notes of delegation member (b)(6)

¹³⁸ Notes of delegation member

¹³⁹ Notes of delegation members

¹⁴⁰ Notes of delegation members

¹⁴¹ Notes of delegation members (b)(6)

¹⁴² Notes of delegation member

¹⁴³ Notes of delegation members

¹⁴⁴ BCJ Inmate Handbook, pg. 1.

¹⁴⁵ BCJ Inmate Handbook, pg. 1.

The BCJ Inmate Handbook does not provide an explanation of the classification levels, with the conditions and restrictions applicable to each.

F. Voluntary Work Programs

The *Detention Standards* require all facilities with work programs to “provide detainees the opportunity to work and earn money.”¹⁴⁶ The *Standards* also state that detainees must receive monetary compensation for work completed in accordance with the facility’s standard policy.¹⁴⁷

The BCJ facility has not fully implemented this section of the *Standards*. BCJ officials indicated that detainees may participate in voluntary work programs in their housing units. The work, however, is performed for no pay. Apparently, none of the voluntary work programs (for criminal inmates or immigration detainees) provide any compensation. As such, it appears that BCJ has a voluntary work program but with a uniform no-pay policy.

G. Detainee Grievance Procedures

The *Standards* require that the facility develop and implement standard procedures for handling detainee grievances and encourage that the facility initially seek to resolve grievances informally before having to engage in a more formalized procedure.¹⁴⁸ Translating assistance for both formal and informal grievances must be provided upon request.¹⁴⁹ 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.”¹⁵⁰ All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.¹⁵¹ Further, the *Standards* require detainee handbooks to provide an explanation of the grievance procedures, including (1) the procedures for appealing decisions to ICE, and (2) the opportunity to file a complaint about officer misconduct directly with the Justice Department (including the phone number and address).¹⁵²

The delegation is concerned with the facility’s implementation of this section of the *Standards*. The BCJ Inmate Handbook does provide for an inmate grievance procedure.¹⁵³ Detainees should first attempt to resolve their problem or concern informally. If the response is not satisfactory, the detainee may then file an Inmate Grievance Form, which goes to the Inmate Grievance Coordinator. Detainees may file an

¹⁴⁶ Detention Operations Manual, Detainee Services, Standard 17, Section I.

¹⁴⁷ Detention Operations Manual, Detainee Services, Standard 17, Section III.K.

¹⁴⁸ Detention Operations Manual, Detainee Services, Standard 8, Sections I & III.A.

¹⁴⁹ Detention Operations Manual, Detainee Services, Standard 8, Sections III.A.1 & 2.

¹⁵⁰ Detention Operations Manual, Detainee Services, Standard 8, Section I.

¹⁵¹ Detention Operations Manual, Detainee Services, Standard 8, Sections I & III.C.

¹⁵² Detention Operations Manual, Detainee Services, Standard 8, Section III.G.

¹⁵³ BCJ Inmate Handbook, p. 4.

appeal of a Denied Grievance with the Superintendent.¹⁵⁴ The BCJ Inmate Handbook contains time limits for filing grievance, but it does not give any timeframe for a response to a grievance. **This policy is in conflict with the *Standards*, which provide for a time limit for a facility’s response to all aspects of a grievance.** Superintendent (b)(6), (b)(7)c however, commented that the typical grievance procedure, including any appeal, normally takes seven days, and that he personally reviews each grievance form filed.¹⁵⁵

BCJ does have an actual grievance form, in conformance with the *Detention Standards*. The form provides a space for the detainee to list his or her complaint, as well as a requested remedy. This section also includes a box indicating whether the grievance filer is an INS (ICE) detainee. The second section of the form contains the grievance decision along with a place for the Grievance Coordinator to write a summary of his or her findings. The detainee must sign the form once he or she reviews it, and must indicate whether or not he or she intends to appeal the decision. The third section contains the appeal decision. One detainee filed a grievance form and received a satisfactory response, although she mentioned that she gave the form to the officer on duty, who in turn passed it on to the lieutenant.¹⁵⁶ She never mentioned an Inmate Grievance Coordinator.

It does not appear that translating assistance is available for either formal or informal grievances, nor was there any indication that BCJ personnel convene a grievance committee to review formal complaints. Finally, although the BCJ Inmate Handbook provides for a grievance procedure, neither the Handbook nor the grievance form provides the procedures for appealing decisions to ICE or the opportunity to file a complaint about officer misconduct directly with the Justice Department.

H. Use of Force

The *Detention Standards* provide that use of force is authorized only after all reasonable efforts to resolve a situation have failed.¹⁵⁷ Officers shall use as little force as necessary to gain control of the detainee; to protect and ensure the safety of detainees, staff, and others; to prevent serious property damage; and to ensure the security and orderly operation of the facility.¹⁵⁸ Physical restraints can be used to gain control of an apparently dangerous detainee only under specified conditions.¹⁵⁹ The *Standards* require that “all incidents of use of force be documented and forwarded to [ICE] for review” and that all calculated uses of force be videotaped and made available to ICE.¹⁶⁰ In addition, the *Standards* provide that under no circumstances shall force be used to punish a detainee.¹⁶¹

¹⁵⁴ BCJ Inmate Handbook, p. 4.

¹⁵⁵ Notes of delegation member

¹⁵⁶ Notes of delegation members

(b)(6)

¹⁵⁷ Detention Operations Manual, Security and Control, Standard 15, Section I.

¹⁵⁸ Detention Operations Manual, Security and Control, Standard 15, Section I.

¹⁵⁹ Detention Operations Manual, Security and Control, Standard 15, Section I.

¹⁶⁰ Detention Operations Manual, Security and Control, Standard 15, Section III.A.2.

¹⁶¹ Detention Operations Manual, Security and Control, Standard 15, Section III.B.

The BCJ facility appears to have implemented this section of the *Standards*. No detainees we spoke with had any complaints regarding the improper use of force. One detainee mentioned that detainees are shackled when they are transferred to and from courts,¹⁶² and this statement was echoed by two other detainees, who said that they have only been shackled during transports.¹⁶³ Restraining detainees during transportation can be viewed as necessary to protect and ensure the safety of detainees, staff, and others, and is not in violation of the *Standards*.

Superintendent (b)(6), (b)(7)c told the delegation that the most frequent use of force against detainees occurs as a result of a detainee disobeying the orders of a corrections officer. He estimated that in the last six months BCJ used force against ICE detainees approximately six times.¹⁶⁴

What remains unclear, however, is whether BCJ documents all “use of force” incidents and forwards the documentation to ICE. Furthermore, there was no mention of BCJ videotaping all calculated uses of force against detainees and forwarding the footage to ICE. Both of these procedures are required by the *Detention Standards*.

I. Clothing and Personal Hygiene Products

The *Detention Standards* require facilities to have a policy and procedure for the regular issuance and exchange of clothing, bedding, linens, and towels.¹⁶⁵ According to the *Standards*, “[a]ll new detainees shall be issued clean, temperature-appropriate, presentable clothing during in-processing.”¹⁶⁶ New detainees shall also be issued “clean bedding, linens and towel.”¹⁶⁷ As for “exchange requirements,” the *Standards* state:

Detainees shall be provided with clean clothing, linen and towels on a regular basis to ensure proper hygiene. Socks and undergarments will be exchanged daily, outer garments at least twice weekly and sheets, towels and pillowcases at least weekly.¹⁶⁸

The *Standards* further add that “[i]ndividual facilities may institute their own clothing, linen and towel exchange policy and procedures, provided the standards in this policy are met.”¹⁶⁹

BCJ has technically implemented this section of the *Standards*. Inmates at BCJ may launder their uniforms twice a week. The detainees can also launder their linen twice a week. One detainee reported that the facility exchanges undergarments daily.¹⁷⁰

¹⁶² Notes of delegation member (b)(6)

¹⁶³ Notes of delegation member (b)(6)

¹⁶⁴ Notes of delegation member (b)(6)

¹⁶⁵ Detention Operations Manual, Detainee Services, Standard 10, Section III.A.

¹⁶⁶ Detention Operations Manual, Detainee Services, Standard 10, Section III.B.

¹⁶⁷ Detention Operations Manual, Detainee Services, Standard 10, Section III.C.

¹⁶⁸ Detention Operations Manual, Detainee Services, Standard 10, Section III.E.

¹⁶⁹ Detention Operations Manual, Detainee Services, Standard 10, Section III.E.

¹⁷⁰ Notes of delegation member (b)(6)

Detainees also receive hygiene products from the jail, although one detainee mentioned that deodorant was not included in the hygiene kit given to detainees.¹⁷¹ They may also purchase additional hygiene products from the commissary. One detainee interviewed reported that upon arrival at BCJ she received clothes that were much too big for her petite frame. She filled out three requests for new, smaller, clothes, but has not received any.¹⁷² Another detainee, however, said that she has encountered no problems in receiving new clothing items upon request.¹⁷³

J. Religious Services

The *Detention Standards* require that detainees of different religious beliefs be provided with reasonable and equitable opportunities to participate in the practices of their respective faiths.¹⁷⁴ According to the *Standards*, these “opportunities will exist for all equally, regardless of the number of practitioners of a given religion, whether the religion is ‘mainstream,’ whether the religion is ‘Western’ or ‘Eastern,’ or other such factors. Opportunities will be constrained only by concerns about safety, security, the orderly operation of the facility, or extraordinary costs associated with a specific practice.”¹⁷⁵

Moreover, a facility’s staff shall make “all reasonable efforts to accommodate” special food services required by a detainee’s particular religion.¹⁷⁶ Detainees in confinement must also be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility.¹⁷⁷

The delegation interviewees represented only two religions: Islam and Christianity. For these faiths, the facility met the *Detention Standards* by allowing the detainees access to religious materials, religious services of some sort, and the opportunity to have group sessions (e.g. bible studies). The interviewees also noted that they did not face harassment based on their faith.¹⁷⁸

The interviewees did raise some important concerns. First, a detainee who practices Islam complained that the religious food choice was not adequate because it was always a vegetarian choice.¹⁷⁹ According to this detainee, the facility forced him to be a vegetarian and he was concerned that this meatless diet was an unhealthy choice. Besides having issues with the religious food choice, this detainee also noted that there presently was no ICE-detainee access to an Imam even though an Imam visited with the prisoners.

¹⁷¹ Notes of delegation member [REDACTED]

¹⁷² Notes of delegation member [REDACTED]

(b)(6)

¹⁷³ Notes of delegation member [REDACTED]

¹⁷⁴ Detention Operations Manual, Detainee Services, Standard 14, Section I.

¹⁷⁵ Detention Operations Manual, Detainee Services, Standard 14, Section I.

¹⁷⁶ Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

¹⁷⁷ Detention Operations Manual, Detainee Services, Standard 14, Section III.O.

¹⁷⁸ Notes of delegation members [REDACTED]

(b)(6)

(b)(6)

¹⁷⁹ Notes of delegation members [REDACTED]

(b)(6)

K. ICE Presence at the Facility

The *Detention Standards* require procedures to be in place "to allow for formal and informal contact between key facility staff and ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame."¹⁸⁰ The *Standards* require that both weekly visits be conducted by ICE personnel and that "regular unannounced (not scheduled) visits" be conducted by the ICE OIC, the Assistant OIC, and designated department heads.¹⁸¹ 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.¹⁸² The *Standards* also require that detainees "have the opportunity to submit written questions, requests, or concerns to ICE staff."¹⁸³ 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."¹⁸⁴ Moreover, the *Standards* require 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."¹⁸⁵

ICE has implemented this section of the *Standards* at BCJ. An ICE officer was present at the facility on the date of the delegation's visit, and a detainee indicated that there are weekly ICE visits to the facility.¹⁸⁶ Detainees may submit informal complaints and inquiries directly to ICE personnel.¹⁸⁷ There are procedures in place to assist detainees who were disabled, illiterate or unable to communicate in English. The detainees at BCJ reported having sufficient ICE contact. One reported that most detainees are reasonably updated about the status of their cases and their detention.¹⁸⁸

V. RECOMMENDATIONS

The Bristol County Jail facility has not fully implemented a number of the sections of the *ICE Detention Standards*. The delegation recommends the following proposals so that the facility may fulfill its obligations under the *Standards*:

Visitation

- BCJ should permit contact visits between detainees and their children;

¹⁸⁰ Detention Operations Manual, Staff-Detainee Communications, Section I.

¹⁸¹ Detention Operations Manual, Staff-Detainee Communications, Section III.A.

¹⁸² Detention Operations Manual, Staff-Detainee Communications, Section III.A.

¹⁸³ Detention Operations Manual, Staff-Detainee Communications, Section III.B.

¹⁸⁴ Detention Operations Manual, Staff-Detainee Communications, Section III.B.

¹⁸⁵ Detention Operations Manual, Staff-Detainee Communications, Section III.B.1.

¹⁸⁶ Notes of delegation member

¹⁸⁷ Notes of delegation member

¹⁸⁸ Notes of delegation member

(b)(6)

- alternate arrangements should be available for visitors who are unable to come during regular visiting hours; the option to make alternate arrangements should be made known to the detainees.

Telephone Access

- BCJ should install privacy panels or otherwise place telephones so that detainees can make legal phone calls without being overheard by others; and
- BCJ should not monitor, in any manner whatsoever, legal phone calls (absent a court order); BCJ should provide detainees with the procedure for obtaining an unmonitored call for legal purposes.

Access to Legal Materials

- The BCJ facility needs to have a central library where detainees have room to read and review legal materials and privacy in researching cases and immigration law to help their situation;
- if a central law library is not feasible, BCJ should install more computers in each housing unit; one computer workstation per fifty detainees is not sufficient;
- BCJ should update its legal materials, make printed materials more accessible to all detainees, and provide access to all of the legal materials listed in the *Detention Standards*; BCJ should also replace all damaged, destroyed, and stolen materials;
- the library in the female housing unit should be equipped with immigration law books and materials;
- female detainees should have more access to the library and the use of legal materials and no one should be forced to choose between recreation time or use of the library;
- if the library is limited to a computer workstation, then training should be given to all detainees on how to use the computers and what information can be found there;
- legal dictionaries and related materials should be available to detainees that are not fluent in English; and
- BCJ should assign an employee to organize, update, and request legal materials.

Group Rights Presentations

- BCJ should comply with the *Standards* by prominently displaying posters of upcoming group rights presentations; and
- BCJ should periodically show the "Know Your Rights" video created by the Florence Project and distributed by ICE.

Recreation

- BCJ should ensure that no detainee must choose between recreation and basic law library privileges;

Medical Treatment

- treatment should not be delayed to detainees with temporary or non-chronic medical conditions;
- medicine should not be denied to detainees with non-life-threatening, temporary or non-chronic medical conditions; and
- BCJ personnel should provide appropriate diet trays to detainees with special diet restrictions.

Dental Treatment

- BCJ should provide routine dental treatment to detainees who are held in detention for over six months, including amalgam and composite restorations, prophylaxis, root canals, extractions, x-rays, the repair and adjustment of prosthetic appliances and other procedures required to maintain the detainee's health.

Detainee Classification

- BCJ's Inmate Handbook should include (1) an explanation of the classification levels, with conditions and restrictions applicable to each, and (2) the procedures by which a detainee may appeal his or her classification; and
- detainees should be housed in accordance with their classification.

Voluntary Work Programs

- BCJ should provide detainees monetary compensation for work completed pursuant to its voluntary work program.

Detainee Grievance Procedures

- BCJ should provide translating assistance for both formal and informal grievances;
- BCJ should indicate to the detainees the timeframe for a response to a grievance;
- BCJ should convene a grievance committee to review formal complaints in a timely manner; and
- the BCJ Inmate Handbook should provide an explanation of the procedures for appealing decisions to ICE and the opportunity to file a complaint about officer misconduct directly with the Justice Department (including the phone number and address).

Use of Force

- BCJ should document all "use of force" incidents and forward the documentation to ICE; and
- BCJ should videotape all calculated uses of force against detainees and forward the footage to ICE for evaluation.

Religious Services

- BCJ personnel should make "all reasonable efforts to accommodate" special food services required by a detainee's particular religion.