

Facility Name: Pamunkey Regional Jail (Pamunkey); Hanover, VA

Date of Tour: August 10, 2004

Tour Participants: [REDACTED], and [REDACTED]
(Latham & Watkins, LLP)

Detainees were housed in a different housing unit up until two days before delegation observed the facility currently housing detainees.

ICE Standard	Delegation Observation	Source	ICE Response	
<p>Detainee Services Standard 17 – Visitation (Legal Access)</p>	<ul style="list-style-type: none"> ▪ III(I), §12 – “Detainees in either administrative or disciplinary segregation shall be allowed legal visitation. If the OIC considers special security measures necessary, he/she will notify legal service providers of the security concerns prior to the meeting.” 	<ul style="list-style-type: none"> ▪ Detainees in disciplinary detention are not permitted any visitation 	<ul style="list-style-type: none"> ▪ Delegation interview with Pamunkey tour guide Captain [REDACTED] Pamunkey Handbook, at 15 	
<p>Detainee Services Standard 16 – Telephone Access</p>	<ul style="list-style-type: none"> ▪ I – “Facilities holding INS detainees shall permit them to have reasonable and equitable access to telephones.” ▪ III(C) – “To ensure sufficient access, the facility shall provide at least one telephone for detainee use for every 25 detainees held.” 	<ul style="list-style-type: none"> ▪ Detainees in their new dorm-style housing unit have approximately 5 phones for 48 detainees. One detainee stated that in this new housing unit, he and the other detainees have “unlimited access” to the telephones, with the exception of meal times, mandatory recreation time, and count time. ▪ Male detainees who are classified as higher than minimum security risks and female detainees are not in the new housing. Such detainees do not 	<ul style="list-style-type: none"> ▪ Interview with unidentified Detainee (from Colombia) ▪ Interview with unidentified Detainee (from Colombia); delegation notes 	

		have regular access the phones because they are in lockdown for approximately 18 hours a day.		
<p>Detainee Services Standard 16 – Telephone Access</p>	<ul style="list-style-type: none"> ▪ 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, and after demonstrating compelling need in a family/personal emergency.]” ▪ III(J) – “The facility shall ensure privacy for detainees’ telephone calls regarding legal matters.” ▪ 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. The OIC retains the discretion to have other calls monitored for security purposes.” 	<ul style="list-style-type: none"> ▪ Detainees do not have the ability to make free direct calls to any organization listed in the Standards. ▪ The general policy at the facility is that “[a]ll calls are collect and subject to being monitored and/or recorded.” ▪ Detainees may make phone calls to their attorneys in private, using a calling card provided by the facility. If a detainee wishes to do so, he or she must fill out a form and will be brought to a private room by a staff member. The facility “tries to limit” the number of private calls placed by the detainees to their attorneys. ▪ None of the detainees interviewed were aware of the procedure for contacting attorneys in private. 	<ul style="list-style-type: none"> ▪ Pamunkey Detainee/Inmate Handbook ▪ Interview with Captain ██████████ 	
<p>Detainee Services Standard 1 – Access to Legal Materials</p>	<ul style="list-style-type: none"> ▪ III(A) – “The facility shall provide a law library in a designated room with sufficient space to facilitate detainees’ legal research and writing. The law library shall be large enough to provide reasonable access to all detainees who request its use.” ▪ III(C) – “The law library shall contain the materials listed in 	<ul style="list-style-type: none"> ▪ The Pamunkey law library has a fairly extensive collection of immigration law materials. However, the library is missing many of the materials listed in Attachment A. ▪ The Pamunkey law library is currently located in a very small room, approximately 10 feet long by 8 feet wide, with two large bookshelves, one table with three chairs around it, and 	<ul style="list-style-type: none"> ▪ Interviews with Captain ██████████ and Officer Hubbard and Officer ██████████ Pamunkey Program Officers. ▪ Observations of delegation on 	

	<p>Attachment A [to Standard 1]. ICE shall provide an initial set of these materials. The facility shall post a list of its holdings in the law library.”</p> <ul style="list-style-type: none"> III(B) – “The law library shall provide an adequate number of typewriters and/or computers, writing implements, paper, and office supplies to enable detainees to prepare documents for legal proceedings.” 	<p>one table with a computer.</p> <ul style="list-style-type: none"> The law library has only one computer for which there is no printer. There are no typewriters in the law library. While the computer is a valuable tool for research, it does not give detainees the ability to prepare legal documents. There are no writing implements, office supplies or paper in the law library. 	<p>tour.</p>	
<p>Health Services Standard 2 – Medical Care</p>	<ul style="list-style-type: none"> III(A) – “Every facility will provide its detainee population with initial medical screening, cost-effective primary medical care, and emergency care....All facilities will employ, at a minimum, a medical staff large enough to perform basic exams and treatments for all detainees.” 	<ul style="list-style-type: none"> The infirmary is staffed by two nurses and one nursing supervisor during the day and two nurses at night. There is a physician’s assistant who sees patients on Wednesdays, and a physician who sees patients for 2-3 hours on Mondays. Many interviewed detainees expressed severe concerns regarding delays in receiving medical treatment. 	<ul style="list-style-type: none"> Interviews with unidentified Pamunkey medical staff 	
<p>Detainee Services Standard 14 – Religious Practices</p>	<ul style="list-style-type: none"> III(M) – “The food service department will implement procedures for accommodating, within reason, detainees’ religious dietary requirements.” 	<ul style="list-style-type: none"> The facility does not accommodate religious diets, although Captain ██████ added that pork is never served. 	<ul style="list-style-type: none"> Interviews with unidentified food service staff; interview with Capt. ██████ 	
<p>Detainee Services Standard 18</p>	<ul style="list-style-type: none"> I – “Every facility with a work program will provide detainees the opportunity to work and earn 	<ul style="list-style-type: none"> Only some detainees may work in the facility. The detainees are not paid for this work. 	<ul style="list-style-type: none"> Interview with Captain ██████ 	

- Voluntary Work Program	money.” ▪ III(A) – “Detainees who are physically and mentally able to work will be provided the opportunity to participate in any voluntary work program.”	▪ An official from Pamunkey will shortly write a letter on behalf of the detainees to ICE to inform ICE about the detainee’s help and hard work.		
--------------------------	---	--	--	--

MEMORANDUM

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

From: American Bar Association Delegation to Pamunkey Regional Jail¹

Date: September 3, 2004

Cc: (b)(6) BA Commission on Immigration

Re: Report on observations during a general tour of the Pamunkey Regional Jail facility

I. INTRODUCTION

This memorandum evaluates and summarizes facts and findings gathered at the Pamunkey Regional Jail ("Pamunkey") in Hanover, Virginia. The information was gathered via observation of the facility by the delegation and interviews with detainees and facility staff on August 10, 2004.

The Immigration and Customs Enforcement ("ICE"), formerly the Immigration Naturalization Service ("INS"), promulgated the "*ICE Detention Standards*" in November 2000 to ensure the "safe, secure and humane treatment of individuals detained by the [ICE]." 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 Service Processing Centers ("SPC"), Contract Detention Facilities ("CDF"), and state and local government used by the ICE through Intergovernmental Service Agreements ("IGSA"). The Detention Standards went into effect at ICE SPCs and CDFs on January 1, 2001, and were to have been implemented at each facility by January 2003. The *Standards* constitute a "floor" not a "ceiling" for treatment of ICE detainees. In other words, they are meant to establish the minimal requirements that ICE must adhere to in the operation of its facilities. Each Field Office or Officer in Charge ("OIC") of a facility may, in his or her discretion, may promulgate policies and practices affording ICE detainees more enhanced rights and protections than those provided for by the *Standards*.

II. THE PAMUNKEY REGIONAL JAIL

A. The Facility

The Pamunkey Regional Jail is located in Hanover, Virginia, about 20 miles north

¹ The delegation was comprised of Latham & Watkins LLP attorneys (b)(6) and Summer Associates (b)(6)

of Richmond. Pamunkey is an IGSA facility that houses men and women detainees. Male detainees are generally housed in a unit with other detainees, separate from the general prison population. Female detainees are housed in the facility's only female unit, together with the general prison population.

On the day we visited, the total population at Pamunkey was 437 inmates, of which 77 were immigration detainees. Captain (b)(6), (b)(7)(F) the host of our tour, reported that the average length of stay for detainees ranges widely from overnight to three to four months. Spanish is the native language for the large majority of the detainees at Pamunkey. Pamunkey receives a \$55 per day per diem for each detainee.

Pamunkey is a clean and modern facility. There is a processing facility, a law library, a regular library, various indoor and outdoor recreation yards, a barbershop, a chaplain's office, a medical facility, and a canteen.

Significantly, two to three days before our arrival, the male detainees designated as low security risks were moved to a new unit at Pamunkey. Previously, all male detainees were housed in typical units, comprised of individual cells, each with a double-bunk-bed. Detainees interviewed reported that two to three detainees were previously placed in a single cell and detainees spent approximately 18 hours per day in lockdown inside their cells. Following their move, however, male detainees were brought to a unit comprised of one, large dorm style room. Double bunk-beds are spread throughout the room and detainees are able to move freely around the large room throughout the day. Male detainees now share common bathroom facilities. Overall, detainees that we interviewed were overwhelmingly pleased with their new unit and believed that our visit played some role in the move.² Unfortunately, because of the low number of female detainees at the facility, female detainees are housed in a standard unit, including cells, with other female inmates at Pamunkey.

B. Facility Handbook

The *Standards* suggest that each facility "develop a site-specific detainee Handbook to serve as an overview of, and guide to, the detention policies, rules, and procedures in effect at the facility. The Handbook will also describe the services, programs, and opportunities available through various sources including the facility."³ The Handbook is supposed to constitute a comprehensive guide to life in the facility and include, at a minimum, the information specified in Section III, A through J of the *Detainee Handbook Standard*, of the *Standards*. The purpose of the Handbook requirement is to give detainees notice of all applicable rules, policies, and privileges of the facility.

Pamunkey staff purportedly gives each detainee a Pamunkey Regional Jail Inmate Handbook ("Handbook") upon arrival. In addition, the Handbook is periodically updated – the last revision occurred in March 2003. Currently, the Handbook is available only in English,

² Interview with Detainee (Columbia), on August 10, 2004; Interview with Detainee (Ethiopia), on August 10, 2004.

³ See Detention Operations Manual, Detainee Services (5)(I).

although according to Captain (b)(6), (b)(7)(c) the facility is in the process of having the Handbook translated into several other languages, including Spanish. Moreover, according to Captain (b)(6), (b)(7)(c) upon arrival, someone at the facility interprets the Handbook for detainees that do not speak English.

III. OBSERVATION OF IMPLEMENTATION OF LEGAL ACCESS STANDARDS

The remainder of this memorandum focuses on portions of the *Standards* relating particularly to areas of legal access, as well as general concerns raised out of observations during the general tour. In particular, the memorandum focuses on Pamunkey's implementation of the *Standards* concerning access to counsel and legal rights, including the following: (1) Visitation; (2) Telephone Access; (3) Legal Materials; and (4) Group Rights Presentations. The memorandum also addresses other concerns observed during the course of the visit including: Recreation Issues; Medical Care, and Religious Issues.

A. Visitation

The Handbook and the Rules of Visitation posted at Pamunkey do not require that visitors have a particular relationship (e.g., attorney, friend, family, etc.) to the detainee receiving visitors. In fact, the Handbook and Visitation Rules make little distinction between visits by attorneys and other visitors, although, as discussed below, different procedures appear to be in place with respect to attorneys.

1. Legal Visitation

a. Visitation Times

The *Standards* state that legal visitation should be allowed seven (7) days a week for a minimum of eight (8) hours on weekdays, and four (4) 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.⁴

The Handbook provides that legal representatives may visit detainees Monday through Friday from 9:00 a.m. until 9:30 p.m., "by appointment only and are subject to the same restrictions as regular visitation."⁵ According to the Handbook, such visitation may be for no more than 30 minutes.⁶ In addition, the 9:00 a.m. until 9:30 p.m. window is subject to the restriction that no visits are permitted between the hours of 11:00 a.m. through 2:00 p.m. and 4:00 p.m. through 7:30 p.m. Detainees are limited to one visit per day and two visits per week.⁷ The Handbook states that detainees in disciplinary detention are not permitted any visitation,⁸

⁴ Detention Operations Manual, Visitation Standard, Section III.I.2.

⁵ Handbook at 14. (The Handbook is attached hereto as Exhibit A).

⁶ Id.

⁷ Id.

⁸ Id. at 15.

and Captain (b)(6), (b)(7) confirmed this. The Handbook and Rules of Visitation provide for pre-approved special and extended visits for visitors living a minimum of 75 miles away from the Facility.⁹ Captain (b)(6), (b)(7) confirmed this special arrangement.

Captain (b)(6), (b)(7) indicated that Pamunkey is more flexible with respect to visits by attorneys and consular officials, including allowing weekend visitation, but there is no official statement of this policy. In practice, however, Captain (b)(6), (b)(7)'s representations appear to be accurate. Two detainees reported that they had been visited by their attorneys on at least one occasion each and did not report any time restrictions or other problems.¹⁰

Captain (b)(6), (b)(7) stated that no visitation is permitted during head counts or lockdown and there is no procedure to provide detainees with recreation time if visitation conflicts with the recreation time for their housing unit; however, she also stated that detainees are provided with meals if visitation interferes with their regular meal time.

b. Attorney Access

The *Standards* provide that attorneys without bar cards must be granted access if they show other available documentation to demonstrate bar membership. An attorney or an accredited representative should not have to submit a G-28 for a pre-representation interview. And, upon presentation of a letter of authorization from a supervising attorney, legal assistants, law students, or law graduates, and non-attorneys with appropriate identification should be allowed entry. Mental and medical health professionals, and interpreters, with appropriate identification, should also be allowed entry.¹¹

Captain (b)(6), (b)(7) confirmed that an attorney can call ahead to determine if a detainee is at Pamunkey on a 24-hour basis. The Handbook contemplates only attorneys of record and members of the clergy making professional visits, and Captain (b)(6), (b)(7) stated that bar I.D. cards are required for attorneys. However, Captain (b)(6), (b)(7) indicated that the Facility would cooperate to otherwise confirm bar membership if no I.D. card was available.

2. Privacy

The *Standards* provide that an attorney or legal representative should be provided with a private room to conduct a meeting with possible visual, but no audio observation. Attorneys, legal representatives, law students and legal assistants should be able to provide the detainee with paper documents, and the detainees should have the right to retain or have

⁹ Id.

¹⁰ Interview with Detainee (Ecuador), on August 10, 2004; Interview with Detainee (Mexico), on August 10, 2004.

¹¹ Detention Operations Manual, Visitation Standard, Sections III.I.3; III.O.

reasonable access to them.¹²

The Facility includes two rooms used for contact visits by attorneys, both of which have non-perforated windows opening towards the hallway. The rooms, which we used for our interview with detainees, were in good condition, with sufficient space and lighting. Captain (b)(6), (b)(7) stated that, during such visits, an officer may visually observe the visit through the window, but would not be present in the room or otherwise engage in any audio observation of the visit. The Rules of Visitation state that no items (including papers) may be taken to visitation,¹³ but based on other references in the Handbook and statements by Captain (b)(6), (b)(7) this restriction appears not to apply to attorney visits. Captain (b)(6), (b)(7) stated that attorneys are expected to notify Facility officials that they are taking papers into the visitation room and that this requirement is to protect against theft. The Handbook states that detainees are permitted to retain legal papers,¹⁴ but it is not clear whether correspondence with attorneys is subject to the restrictions in the Handbook on the number of letters detainees are permitted to retain.¹⁵

3. Strip Searches

The *Standards* provide that, in facilities such as Pamunkey, which is not owned or operated by ICE, if strip searches are conducted after a contact visit, there should be an alternative procedure available to allow for a non-contact visit.¹⁶

At the Facility, in accordance with the Handbook and as confirmed by Captain (b)(6), (b)(7) detainees are strip searched after a contact legal visitation, but may have a non-contact visit, in which case no such search is required.¹⁷

4. Visitation by Family, Friends, and the Media

a. Visitation Times and Duration

The *Standards* provide that Facilities should permit authorized persons to visit detainees within security and operational constraints. To maintain detainee morale and family relationships, ICE encourages visits from family and friends. Additionally, facilities should permit members of the media and non-governmental organizations to have access to non-classified and non-confidential information about the facility's operation. The *Standards* provide that visiting hours should be clearly posted and permitted during set hours on weekends and holidays. Special arrangements should be available for family members who are unable to visit

¹² Detention Operations Manual, Visitation Standard, Sections III.I.9.

¹³ See Visitation Rules, Item 4.

¹⁴ Handbook at 7 (property permitted to be retained in possession of detainees includes legal papers)

¹⁵ *Id.* at 14 (inmates may accumulate no more than twenty cards or letters and any excess must be destroyed).

¹⁶ Detention Operations Manual, Visitation Standard, Sections III.I.11.

¹⁷ *Id.* at 20.

during regular visiting hours. Visits should be for at least 30 minutes.¹⁸

The Rules of Visitation were posted at the front desk, and additional copies of the Rules of Visitation were available for visitors. According to the Handbook and Rules of Visitation, visiting hours for general visitation are 9:00 a.m. through 9:30 p.m. Monday through Friday, provided that no visits are permitted between the hours of 11:00 a.m. through 2:00 p.m. and 4:00 p.m. through 7:30 p.m.¹⁹ During the permitted hours of visitation, 30-minute visits may be scheduled during one of eight time slots available.²⁰ No visits are permitted on weekend or holidays, although special visits during other days and hours, as well as extended visits, may be scheduled by appointment if the visitor lives at least 75 miles away from the Facility.²¹ The detainees our delegation interviewed were all aware of the visitation hours and time restrictions.²²

b. Other Limits on Visitors

The Handbook states that detainees are limited to one visit per day and two per week – and detainees in disciplinary detention are not permitted to receive visitors. No more than two adults, or one adult and two minors, are permitted to visit a detainee in any one visit. Minors (less than 18 years of age) must be accompanied by an adult at least 21 years of age.²³

The *Standards* do not purport to limit the types of visitors that a detainee may have. “Other than limitations due to visiting room capacity, no limitation should be imposed on the number of visitors per detainee. Immediate family, relatives, friends and associates may visit.” However, according to the Handbook, the Facility does not allow visitations by persons awaiting trial or on active probation or parole, inmates released from the Facility within the past ninety days, or current or former employees of the Facility.²⁴

Detainees are not permitted to receive cash or personal checks. Money orders may be received by detainees through the mail or from visitors. Cash or personal checks received by the detainee must be returned by the detainee at the detainee's expense.²⁵

5. Visitation in Segregation

¹⁸ Detention Operations Manual, Visitation Standard, Sections III.H.

¹⁹ *Id.* at 14.

²⁰ The Facility provided a copy of the visitation schedule, which shows that the visitation time is divided into eight, 30-minute segments separated by 15-minute intervals.

²¹ Handbook at 15.

²² Interview with Detainee (Columbia), on August 10, 2004; Interview with Detainee (Ecuador), on August 10, 2004; Interview with Detainee (Ethiopia), on August 10, 2004; Interview with Detainee (Mexico), on August 10, 2004.

²³ *Id.* at 14-15.

²⁴ *Id.* at 14.

²⁵ *Id.* at 8.

The *Standards* provide that a facility disciplinary system should not allow for deprivation of access to legal or family visitation.²⁶ However, the Handbook provides that detainees in disciplinary detention will not receive visits and Captain [REDACTED] noted that legal visitation was unavailable during “lockdown.”

B. Telephone Access

While Pamunkey has implemented some sections on the *Standards* regarding telephone access, it has failed to implement other, significant sections of the *Standards*.

1. General Requirements

The *Standards* suggest that facilities provide detainees with reasonable and equitable access to telephones.²⁷ In order to meet this requirement, facilities must provide at least one telephone for every 25 detainees and written access rules to each detainee.²⁸

Pamunkey is in the process of implementing this section of the Standards. As discussed above, the detainees were housed in a different housing unit up until two days before our delegation observed the facility. Because the detainees were on “lockdown” for 18 hours per day, and because they did not have access to the phones during mealtimes or mandatory recreation, one detainee reported that they only had limited access to telephones.²⁹ He estimated that they had access to telephones for “about two hours” each day in their previous housing unit.³⁰

As our delegation observed the detainees in their new dorm-style housing unit, we observed approximately 5 phones for 48 detainees. One detainee stated that in this new housing unit, he and the other detainees have “unlimited access” to the telephones, with the exception of meal times, mandatory recreation time, and count time.³¹ While our delegation is concerned about the apparent lack of access to telephones for detainees in the previous housing unit, the new dorm-style unit appears to provide access as suggested in the *Standards* with regard to access to telephones. New telephones were being installed the afternoon we visited Pamunkey. We are also concerned about those detainees who are not housed in the new dorm-style housing unit, which included male detainees who are classified as higher than minimum security risks and female detainees. Such detainees do not have regular access the phones because they are in lockdown for approximately 18 hours a day.

Our delegation did not observe written access rules regarding usage of the phone system

²⁶ Detention Operations Manual, Visitation Standard, Sections III.H.5.

²⁷ Detention Operations Manual, Detainee Services, Standard 15, Sections I & III.A

²⁸ Detention Operations Manual, Detainee Services, Standard 15, Sections III.B. & C.

²⁹ Interview with Detainee (Columbia), on August 10, 2004.

³⁰ Id.

³¹ Id.

near the telephones in the housing unit. However, the Inmate Handbook does set forth rules regarding phone use. The delegation is concerned, however, that the Inmate Handbook is only available in English. Captain [b)(6), (b)(7)] indicated that they are in the process of translating the Handbook into Spanish, but she did not state when a translated Handbook would be available to detainees.

2. Direct vs. Collect Calls

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.³² Detainees must also be able to make direct calls to family members when a “compelling need” arises.³³ Moreover, 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.³⁴

The delegation is concerned about the facility’s implementation of this section of the *Standards*. At the time of our delegation’s visit, detainees did not have the ability to make direct calls to the organizations listed above. The general policy at the facility is that “[a]ll calls are collect and subject to being monitored and/or recorded.”³⁵ Moreover, Pamunkey does not provide for the purchase or use of pre-paid calling cards, although Captain [b)(6), (b)(7)] stated that the facility “may do so in the future.” Because many organizations, including most *pro bono* and immigration advocacy groups, do not accept collect calls, detainees are effectively prohibited from contacting those organizations.

The delegation is also concerned about the ability of the detainees to contact their family members overseas. The phone system does not allow detainees to make international calls. A number of the detainees expressed frustration at not being allowed to make international calls because most detainees have families in other countries. Furthermore, the detainees interviewed by our delegation expressed concerns about the cost of collect calls. One detainee, stated that it costs \$3.85 to connect all calls.³⁶ Another detainee stated that a collect call to his family in New York cost \$15.00 for 18 minutes.³⁷

3. Privacy and Telephone Usage Restrictions for Legal Phone Calls

The *Standards* provide that with respect to legal phone calls:

³² Detention Operations Manual, Detainee Services, Standard 15, Section III.E.

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

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

³⁵ Handbook at 12.

³⁶ Interview with Detainee (Ecuador), on August 10, 2004

³⁷ Interview with Detainee (Columbia), on August 10, 2004.

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.³⁸

The facility should also ensure privacy for all detainee phone calls regarding legal matters. In order to fulfill this requirement, the facility should provide a reasonable number of telephones on which detainees can make such calls without being overheard by officers, other staff, or other detainees.³⁹ The *Standards* also explicitly prohibit the facility and its personnel from monitoring or recording telephone calls on legal matters, absent a court order.⁴⁰ If a facility monitors non-legal calls, it must notify detainees upon admission and place a notice at each monitored telephone.⁴¹ The notice must state that detainee calls are subject to monitoring and must provide the procedure for obtaining an unmonitored call for legal purposes.⁴²

The delegation has serious concerns about the facility's implementation of this section of the Standards. Captain (b)(6), (b)(7) stated that detainees may make phone calls to their attorneys in private, using a calling card provided by the facility. She explained that if a detainee wishes to do so, he or she must fill out a form and will be brought to a private room by a staff member. Captain (b)(6), (b)(7) emphasized that the staff member does not stay in the private room and that these calls are never electronically monitored. She also stated that the facility "tries to limit" the number of private calls placed by the detainees to their attorneys.

At the time of our observation, none of the detainees interviewed were aware of the procedure for contacting attorneys in private. For example, when one was asked about making phone calls to an attorney in private, he said that it is "not possible." He indicated that he is not aware of the procedure for calling an attorney in private and stated that he did not know of any other detainee who had done so.⁴³ Upon examination of the Inmate Handbook, there is no mention of a detainee's ability to contact his or her attorney in private. Furthermore, the delegation did not observe any notice posted near the telephones providing the procedure for detainees to make phone calls to attorneys in private.

Because the detainees are not aware of their ability to make phone calls to their attorneys in private, they are effectively forced to make all phone calls at the telephones in the housing unit which are located in an open area. There are no privacy panels installed and another detainee or staff member at the facility can easily overhear detainee phone conversations. Moreover, as

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

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

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

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

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

⁴³ Interview with Detainee (Columbia), on August 10, 2004.

stated in the Inmate Handbook, *all* telephone calls in housing areas are electronically monitored.⁴⁴ This policy apparently includes attorney-client telephone calls. These practices are particularly troubling to the delegation because they interfere with attorney-client relationships and confidentiality.

4. Incoming Calls and Messages

The *Standards* suggest that facilities take and deliver messages from emergency and non-emergency incoming telephone calls to detainees as promptly as possible.⁴⁵ Upon receiving an emergency call for a detainee, the *Standards* suggest that the facility obtain the caller's name and telephone number and permit the detainees to return the calls as soon as reasonably possible.⁴⁶

The Pamunkey facility has not fully implemented this section of the *Standards*. The facility does not have a formal procedure for providing detainees with messages from attorneys. Captain (b)(6), (b)(7) stated that although the facility does deliver some messages from attorneys to detainees, they "try to limit the number of messages from attorneys to detainees" for fear that the process may be abused. One detainee stated that he has never received any messages from his attorney.⁴⁷ He mentioned that on one occasion, his attorney called the facility and was told that the message would be given to the detainee. The detainee (from Colombia) stated that he never received the message and did not learn of the call until he contacted the attorney one week later. Based on the statements by both Captain (b)(6), (b)(7) and the detainees we interviewed, the delegation is concerned with the ability of detainees to obtain messages from attorneys.

Captain (b)(6), (b)(7) stated that there is a formal procedure in place for detainees to receive messages from emergency incoming telephone calls. She stated that if there is a death in the detainee's immediate family, the call is referred to the facility chaplain. The chaplain verifies the authenticity of the call and meets with the detainee to relay the message. Detainees are then permitted to return the emergency phone call. It is unclear as to whether a death in the detainee's immediate family is the only type of "emergency" message that the facility will relay to a detainee. None of the detainees interviewed expressed concerns with the emergency message process.

C. Access to Legal Materials

The *Detention Standards* suggest all facilities housing detainees permit access to a law library.⁴⁸ Facilities are also required to provide legal materials, facilities, equipment, and

⁴⁴ Handbook at 12.

⁴⁵ Detention Operations Manual, Detainee Services, Standard 15, Section III.I.

⁴⁶ Detention Operations Manual, Detainee Services, Standard 15, Section III.I

⁴⁷ Interview with Detainee (Columbia), on August 10, 2004.

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

document copying privileges, and the opportunity to prepare legal documents.⁴⁹

Though the Pamunkey law library provides a number of the legal materials required by the *Detention Standards*, the library itself is too small and lacks the equipment necessary to allow detainees to prepare legal documents. Pamunkey staff say that they are willing to assist detainees with document preparation, legal research and copying, and provide other services as needed. Though the staff has indicated that detainees are given as much access as they need to the library, reports from at least one detainee call this into question.

1. Materials Identified in Attachment A of the Standards

The *Standards* suggest facility law libraries contain all of the materials listed in Attachment A of Standard 1: *Access to Legal Materials*. The facility should also post a list of its holdings in the law library.⁵⁰ 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.⁵¹ All damaged or stolen items must be promptly replaced.⁵² The facility is responsible for designating an employee charged with updating legal materials, inspecting them weekly, maintaining them in good condition, and replacing items as needed.⁵³

The Pamunkey law library has a fairly extensive collection of immigration law materials. However, the library is missing the following materials listed in Attachment A:

- *Bender's Immigration and Nationality Act Service*
- *Immigration Law and Defense*, by the National Lawyer's Guild
- *Guide for Immigration Law Advocates*
- *Country Reports on Human Rights Practices*
- *Human Rights Watch – World Report*
- *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status*
- *Considerations for Asylum Officers Adjudicating Asylum Claims for Women*
- *Immigration and Naturalization Service Basic Law Manual*
- *Lawyer's Committee Handbook on Representing Asylum Applicants*
- *Rights of Prisoners*
- *Federal Habeas Corpus, Practice and Procedure*, 2nd Edition by Liebman
- *Directory of Nonprofit Agencies that Assist Persons in Immigration Matters*
- Translation dictionaries for languages other than Spanish
- Telephone books

Captain (b)(6), (b)(7) and Captain (b)(6), (b)(7) indicated that the law library has CD-ROMs and

⁴⁹ Id.

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

⁵¹ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

⁵² Detention Operations Manual, Detainee Services, Standard 1, Section III.F.

⁵³ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

information downloaded on the computer in the library with the latest immigration law materials. It is not clear whether some of the materials listed above as missing from the library are available on CD-ROM or in some other form on the computer. Because there is no list of holdings posted in the library, it is also possible that some of the above-listed missing sources were on one of the shelves or on the table in the law library. Detainees who are looking for particular sources have to search the table and the shelves to find out whether the items are available.

According to Captain (b)(6), (b)(7)(c) the jail's Programs Officers (Officer (b)(6), (b)(7)(c) and Officer (b)(6), (b)(7)(c) bear the responsibility for ordering and updating law library materials. To ensure that materials are not damaged or stolen, Officer (b)(6), (b)(7)(c) or Officer (b)(6), (b)(7)(c) inspect the law library after each use by any inmate. The Programs Officers also check the materials in the law library weekly to insure that they are in good condition.⁵⁴ Tae Johnson, an ICE officer responsible for Pamunkey, also comes in once a month to inspect the books. Most of the materials in the law library are either provided by ICE or donated from outside sources. Captain (b)(6), (b)(7)(c) said that ICE reviews materials coming from outside sources.

If detainees need materials that are not located in the Pamunkey law library, Captain (b)(6), (b)(7)(c) indicated that officers will find those materials for detainees on the internet or from outside sources. He said that officers can usually get the material for detainees the same day that it is requested.

2. Library Conditions

The *Standards* suggest that each facility provide a law library in a designated, well-lit room with enough space for detainees to conduct legal research and writing.⁵⁵ The library should also have a sufficient number of tables and chairs to accommodate all detainees who request its use and be reasonably isolated from noisy areas.⁵⁶

The Pamunkey law library is currently located in a very small room, approximately 10 feet long by 8 feet wide, with two large bookshelves, one table with three chairs around it, and one table with a computer. The table without the computer is fairly small and is partially covered by immigration law books. Though Captain (b)(6), (b)(7)(c) indicated that two or three detainees are allowed in the library at one time, it would be impossible for more detainees to be in the library given the space constraints. On a positive note, the Pamunkey law library is adequately lit and is located off a quiet hallway.

3. Photocopies and Mail

The *Standards* mandate that each facility shall ensure that detainees can obtain photocopies of legal material, when such copies are reasonable and necessary for legal

⁵⁴ Conversation with Captain (b)(6), (b)(7)(c) August 10, 2004.

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

⁵⁶ Id.

proceedings involving the detainee.⁵⁷ This can be accomplished by giving detainees access to a copier or copying materials for them.⁵⁸ Facilities shall provide enough copies to meet the filing requirements of a particular court or DHS and ensure that the detainee receives a copy for the detainee's personal records.⁵⁹ The facility should also provide indigent detainees with free envelopes and stamps for mail related to a legal matter.⁶⁰

Pamunkey staff seems very willing to assist detainees with their photocopying needs. Captain (b)(6), (b)(7)c stated that detainees who want copies fill out a requisition form requesting copies and the Programs Officer then takes their documents and makes copies for them. He said that officers have no problem making one or two copies for a detainee for free. He also said, however, that the facility would consider charging for copies if someone were to abuse the process. Captain (b)(6), (b)(7)c indicated that it is very rare for detainees to request any photocopies.

According to Captain (b)(6), (b)(7)c detainees who cannot afford to buy their own stamps and envelopes, and who meet the requirements for indigence, are provided with a biweekly "indigent pack."⁶¹ The indigent pack contains 4 large stamped envelopes, a writing pad, a pen and hygiene products.⁶² To qualify as an indigent, a detainee must have less than 50 cents in his account for at least 30 days.⁶³

4. Computer Access, Equipment and Holdings

The *Standards* suggest 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.⁶⁴ The *Standards* further suggest that the facility shall permit detainees to assist other detainees in preparing legal documents, except when such assistance poses a security risk.⁶⁵

The Pamunkey law library does not have adequate computer equipment in the law library for detainee use. The law library has only one computer for which there is no printer. There are no typewriters in the law library. While the computer is a valuable tool for research, it does not give detainees the ability to prepare legal documents. Detainees also do not have the ability to store information on diskettes that they can keep in their possession. However, Captain (b)(6), (b)(7)c

⁵⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

⁵⁸ Id.

⁵⁹ Id.

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

⁶¹ The Handbook indicates that detainees will only receive the indigent pack once every 30 days. Handbook at 18.

⁶² Handbook at 18.

⁶³ Conversation with Captain (b)(6), (b)(7)c August 10, 2004.

⁶⁴ Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

⁶⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.K.

indicated that Programs Officers (b)(6), (b)(7)c will save materials to a floppy disk for detainees and then print out what they need printed.

There are no writing implements, office supplies or paper in the law library. Captain (b)(6), (b)(7)c stated that detainees are required to bring these materials with them to the library or ask for materials that they need.

Overall, the Pamunkey law library does not appear to provide detainees with access to the equipment necessary to draft and produce legal documents. However, Captain (b)(6), (b)(7)c indicated that officers are more than willing to assist detainees with legal documents. He said that Programs Officers (b)(6), (b)(7)c help detainees with drafting 90% of the time and detainees also help each other draft legal documents and correspondence. The Pamunkey staff also assists in faxing requests for information to ICE for detainees.

According to Captain (b)(6), (b)(7)c Pamunkey staff permit detainees to assist each other in researching and preparing legal documents. He indicated that detainees often turn to each other for help and the staff often depends on other detainees to provide assistance because of the language barriers. Generally, non-English-speaking detainees are assisted by English-speaking detainees and do not request additional assistance with translation from the Pamunkey staff.

5. Access to the Library

The *Standards* suggest that the 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 a week.⁶⁶ Detainees should not be forced to choose between library time and meals, recreation time, or any other planned activity.⁶⁷

Captain (b)(6), (b)(7)c indicated that the law library is open from 8 a.m. to 8 p.m. seven days a week. She said that detainees can sign up for library time on the weekly activity sign-up sheet that is available on Saturdays. According to Captain (b)(6), (b)(7)c Pamunkey staff try to ensure that library time does not interfere with any other planned activities at the facility. He also indicated that they try to provide detainees access to the law library whenever they need it. The staff appears to be more than willing to allow detainees to use the library for more than five hours if they have a need. Captain (b)(6), (b)(7)c also said that the staff tries to give priority for library use to detainees who have urgent deadlines, as long as the staff is aware of such deadlines.

Captain (b)(6), (b)(7)c indicated that the staff give the same law library access to detainees who are housed in Administrative Segregation and Disciplinary Segregation as detainees who are housed in the general population. She said, however, that access might be denied if a detainee were being very uncooperative and not following the rules.

Several detainees that the delegation interviewed did not agree that the staff is flexible in allowing use of the law library. At least two detainees allegedly signed up to use the law library

⁶⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

⁶⁷ Id.

on several occasions and have never been granted access.⁶⁸ However, another detainee did report that he had been given access to the law library.⁶⁹ While the sign-up system may be useful for Pamunkey staff, the delegation believes that Pamunkey staff should ensure that all detainees who sign up for library access are granted such access and brought to the law library in a timely manner.

6. Notaries, Certified Mail, and Miscellaneous Needs Associated with Legal Matters

The *Detention Standards* suggest that the facility provide assistance to any unrepresented detainee who requests a notary public, certified mail, or other services pursuant to a legal matter if the detainee is unable to meet the need through a family member, friend or community organization.⁷⁰

The Pamunkey Inmate Handbook states that notary and clerical services are provided for a fee by submitting a request to the Programs Officer.⁷¹

7. Legal Material Retention

The *Detention Standards* suggest that the facility permit detainees to retain all personal legal material upon admittance to the general population or in segregation, unless such material creates a safety, security or sanitation hazard.⁷² The facility can require detainees to place some personal legal materials in the property storage area, with access permitted during designated hours, if detainees have too much material to store with them in the general population.⁷³

The Pamunkey Inmate Handbook states that detainees are allowed to maintain legal papers in their possession.⁷⁴ Captain [REDACTED] indicated that there is no limit on how many legal documents a detainee may keep in his possession. She recounted that the only time a detainee was ever asked to store his documents in a separate location was when the person had documents dating back to the 1960s that took up more than half his cell. The staff asked that particular detainee to either send some of his documents outside the facility to be stored or allow the staff to destroy some of the unnecessary documents.

⁶⁸ Interview with Detainee (Columbia), on August 10, 2004; Interview with Detainee (Mexico), on August 10, 2004.

⁶⁹ Interview with Detainee (Ecuador), on August 10, 2004

⁷⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.P.

⁷¹ Handbook at 17.

⁷² Detention Operations Manual, Detainee Services, Standard 1, Section III.K.

⁷³ Id.

⁷⁴ Handbook at 7.

D. Group Right Presentations

The *Standards* on Group Presentations on Legal Rights 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 the facility. All facilities must cooperate fully with authorized persons seeking to make such presentations.⁷⁵

The Capital Area Immigrants' Rights Coalition ("CAIR Coalition") makes monthly visits to the Pamunkey facility. The detainees find these visits and CAIR Coalition team members helpful in answering their legal questions.⁷⁶

Group presentations are open to all detainees, regardless of the presenter's intended audience, except when a particular detainee's attendance would pose a security risk. However, Pamunkey staff indicated that group presentations are less common than individual, one-on-one discussions. Group presentations, including the presentation of the "Know Your Rights" video, are typically offered to new detainees only. At least one detainee indicated that he had seen the video.⁷⁷

IV. OTHER GENERAL OBSERVATIONS UNRELATED TO THE LEGAL ACCESS STANDARDS

A. Access to Medical Treatment

The *Standards* suggest that all detainees have access to medical services that promote health and general well-being.⁷⁸ Facilities are suggested to have regularly scheduled times when medical personnel are available to see detainees who have requested medical services.⁷⁹ Facilities must also have procedures in place to provide emergency medical care for detainees who require it.⁸⁰ In a situation where a detention officer is uncertain whether a detainee requires emergency medical care, the officer should immediately contact a health care provider or an on-duty supervisor.⁸¹

The delegation is concerned with the facility's access to medical care for immigration detainees. Pamunkey has an infirmary that includes space for medical intake and six medical holding cells. One of the cells includes a camera for suicide watch and another cell is sealed

⁷⁵ Detention Operations Manual, Group Rights Presentation Standard, Sections I, III.

⁷⁶ Interview with Detainee (Ecuador), on August 10, 2004.

⁷⁷ Id.

⁷⁸ Detention Operations Manual, Detainee Health Services, Standard 2, Section I.

⁷⁹ Detention Operations Manual, Detainee Health Services, Standard 2, Section III.F.

⁸⁰ Detention Operations Manual, Detainee Health Services, Standard 2, Sections III.A, D., and G.

⁸¹ Detention Operations Manual, Detainee Health Services, Standard 2, Section III.H.

with negative air pressure to contain possible biological hazards and serious infectious diseases. According to Pamunkey's medical staff, the infirmary is staffed by two nurses and one nursing supervisor during the day and two nurses at night. There is a physician's assistant who sees patients on Wednesdays, and a physician who sees patients for 2-3 hours on Mondays. In addition, mental health services are provided through the county, which sends a psychologist to the facility twice each week and a psychiatrist every other week. Should a detainee desire medical treatment, he or she must fill out a request form, briefly describing his or her medical problems. The requests are addressed in order of severity. While the procedures stated in the Pamunkey Regional Jail Inmate Handbook and relayed by Captain (b)(6), (b)(7)(c) appear to meet the intent of the *Standards*, the detainees interviewed by the delegation raised serious concerns regarding health care at the facility.

Upon interviewing the detainees, many expressed concerns regarding delays in receiving medical treatment. One detainee stated that detainees "have to be bleeding" in order to receive medical attention.⁸² He indicated that when detainees fill out request forms, the wait to be called in to receive treatment is so long that most people are better before they are called into the infirmary. The same detainee stated that on one occasion, he sprained his ankle playing basketball. He filled out a form and told one of the officers that he needed to go to the infirmary. After waiting for a considerable amount of time, he finally pretended that he could not walk and was finally taken into the infirmary.⁸³ Another detainee, reported that he has made three medical requests during the month that he has been at Pamunkey and has not received any response.⁸⁴ The delegation finds these delays in administering medical treatment particularly troubling.

The delegation is also very concerned about Pamunkey's monitoring of detainees for mental health problems. While Pamunkey screens detainees for mental health problems upon arrival at the facility, there are no follow-up or subsequent screenings of detainees. According to Captain (b)(6), (b)(7)(c) Pamunkey staff regularly observes the detainees and will report any unusual behavior to supervisors or the medical staff.

B. Dietary Requirements

According to Captain (b)(6), (b)(7)(c) medical diets are accommodated. The facility does not accommodate religious diets, although Captain (b)(6), (b)(7)(c) added that pork is never served. The facility does accommodate vegetarian diets. However, once a detainee indicates at classification that he or she is (or is not) a vegetarian, they cannot change their mind at a later date. As Captain (b)(6), (b)(7)(c) stated, "if he says that he is a meat eater at classification, he will be a meat eater until he leaves."

C. Classes

Captain (b)(6), (b)(7)(c) indicated that Pamunkey offers a variety of classes including: computer

⁸² Interview with Detainee (Columbia), on August 10, 2004.

⁸³ Id.

⁸⁴ Interview with Detainee (Mexico), on August 10, 2004

training, GED, adult education, special education, parenting, anger management, "Productive Citizen," "Life Without a Crutch," and "Offender Aid and Restoration." Pamunkey also holds meetings for Narcotics Anonymous and Alcoholics Anonymous. Captain (b)(6), (b)(7) stated that Pamunkey officials are in the process of implementing additional programs, but she did not specify the nature of those programs. All inmates, including detainees, have access to offered classes on a voluntary basis.⁸⁵ Detainees may participate in these classes by filling out a written request to the Programs Officer.⁸⁶ All classes at Pamunkey are offered in English only. Captain (b)(6), (b)(7) indicated that most detainees do not participate in offered classes, because they generally are not at the facility for longer than a couple of months.

D. Recreation

The *Standards* provide that detainees should be placed in facilities that provide outdoor recreation, and that if a facility does not have an outdoor area, a large recreation room with exercise equipment and access to sunlight will be provided. Detainees are to have access to recreation for at least one hour daily, five days a week.⁸⁷

Pamunkey has five small outdoor courtyards and five enclosed indoor courtyards with access to sunlight. Each of the courtyards is designed for basketball and running or jogging of any kind is highly constrained due to the size of the courtyards. According to Captain (b)(6), (b)(7)c detainees, including those in disciplinary conditions, have access to recreation one to two hours per day, seven days per week.

E. Voluntary Work Programs

The *Standards* provide that all facilities with a work program must provide detainees that are physically and mentally able to work the opportunity to do so and earn money. At Pamunkey, some detainees may work in the facility. The detainees are not paid for this work but, according to Captain (b)(6), (b)(7) an official from Pamunkey will write a letter on behalf of the detainee to ICE to inform ICE about the detainee's help and hard work.

F. Religious Issues

Pamunkey offers formal programs for Christians only. A chaplain is available for all detainees and regular services are supplemented with nighttime bible study classes in the facility's classrooms. According to Captain (b)(6), (b)(7) the Chaplain tries to accommodate other religions by finding religious leaders of other denominations, such as rabbis or Imam to visit detainees when requested. Such visits, however, are strictly non-contact. According to Captain (b)(6), (b)(7)c detainees are permitted to have religion items in their personal belongings such as religious books and prayer rugs.

G. Detainee Classification

⁸⁵ Handbook at 19.

⁸⁶ Id.

⁸⁷ Detention Operations Manual, Detainee Services, Standard 13, Section I.

Pamunkey classifies inmates and detainees “to determine the type of management and housing that will best protect the individual and preserve the security of the facility.”⁸⁸ Pamunkey staff indicated that they use the National Institute of Corrections modules for classifying both detainees and inmates. Categories include, among others, prior offenses, current offenses, mental and physical health, and work history. With respect to security risk, inmates may be categorized into Maximum, Medium, and Low-Risk and are placed in corresponding housing units.

Although male detainees were originally housed together with inmates, due to integration problems, the male detainees are now housed separately from inmates in their own pod. Female detainees, according to Captain (b)(6), (b)(7)(C) have fewer integration issues and so they are housed with the inmates. Like the other inmates, detainees are classified on the basis of an interview upon arrival. Detainees with prior criminal records may be housed in the maximum-security wing if their records warrant such treatment.

H. Grievance and Disciplinary Procedures

1. Discipline

The disciplinary procedure described in the Handbook consists of two broad categories of offenses and their possible sanctions. These categories include “Major Violations (Category 1)” (e.g., assault, rioting, arson, sexual misconduct, escape, and destruction of facility property), and “Minor Violations (Category 2)” (e.g., indecent exposure, malingering, and hoarding). The possible sanctions are many, and include a maximum of 60 days cell restriction and loss of privileges.⁸⁹

The primary reason that inmates and detainees are placed in disciplinary segregation is fighting. Pamunkey staff reports that the detainees are generally well-behaved and do not fight as much as regular inmates. Occasionally a detainee might be placed in administrative segregation if the detainee is particularly high-profile or at risk of harm for some reason. Detainees may be quarantined medically if there is concern that they have tuberculosis or an infectious disease; they are not tested nor quarantined for HIV/AIDS. However, if inmates are known to be HIV/AIDS infected and their illness poses a risk to others, they may be placed in medical quarantine. Detainees are not quarantined or segregated based on sexual preferences or if they are transgender, unless the detainee thinks that such status will raise an issue.

2. Grievance Procedure

The *Standards* provide that each facility must develop standard operating procedures that address grievances and must guarantee against any reprisals. An informal procedure should be in place for a detainee to present his or her concern to any staff member at any time.⁹⁰

⁸⁸ Handbook at 9.

⁸⁹ Handbook at 24-30.

⁹⁰ Detention Operations Manual, Detainee Services, Standard 8, Section I.

The Handbook emphasizes that the first step in the grievance procedure is attempting to solve the problem informally. This is initiated by submitting a written Inmate Request Form to the Housing Officer. According to the Handbook, the Housing Officer will attempt to resolve the problem, or forward it to the supervisor. The detainee will receive a written response to this as documentation that the detainees attempted to resolve the dispute informally.⁹¹

The detainee may file a grievance report if he is not satisfied with the resolution of his complaint. Internal Affairs will investigate the grievance and return a copy, with a response, within five working days.⁹² If the resolution is still unsatisfactory, the detainee can file an appeal form, which is reviewed by the Deputy Superintendent. The decisions of the Deputy Superintendent are final.⁹³

Detainees expressed concerns about the grievance procedure. One detainee stated that he filled out grievance forms but he had either received the response that his grievance was “not a grievable offense” or he had received the response that his requested relief was denied.⁹⁴

I. Immigration Court

The Pamunkey facility does not have an immigration court onsite. Detainees must be transported to the Piedmont facility in Farmville, VA to attend sessions of the immigration court via video conference. Detainees are handcuffed at the wrists, shackled at the ankles, and a chain binds together these restraints. After the detainees are bound, a bus delivers the detainees to the Piedmont facility.

According to Pamunkey staff and detainees, there is no pro bono legal assistance available to Pamunkey detainees for immigration court. Other than receiving access to the CAIR Coalition attorneys, detainees must hire their own attorney. These attorneys sometimes answer questions for other, non-client detainees regarding legal issues.

J. ICE Presence

The *Standards* suggest procedures be in place “to allow for formal and informal contact between key facility staff and ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame.”⁹⁵ Under the *Standards*, ICE personnel must conduct weekly visits to the facility and “regularly unannounced (not scheduled) visits.”⁹⁶ The purpose of such visits is to monitor housing conditions, interview detainees, review records, and answer questions for detainees regarding the immigration removal process. The *Standards* also suggest that detainees “have the opportunity to submit written

⁹¹ Handbook at 42.

⁹² Id.

⁹³ Id. at 43.

⁹⁴ Interview with Detainee (Ecuador), on August 10, 2004.

⁹⁵ Detention Operations Manual, Staff-Detainee Communication, Section I.

⁹⁶ Detention Operations Manual, Staff-Detainee Communication, Section III.A.

questions, requests, or concerns to ICE staff.”⁹⁷ The *Standards* suggest that detainee requests be forwarded to the appropriate ICE office within 72 hours and “answered as soon as possible or practicable, but not less than 72 hours from receiving the request.”⁹⁸

ICE is working towards implementing this section of the *Standards*. On the day of our tour, ICE Officer (b)(6), (b)(7)(c) accompanied us on our tour of Pamunkey. According to Officer (b)(6), (b)(7)(c) he or Officer (b)(6), (b)(7)(c) the Assistant OIC, visits Pamunkey monthly and meets with detainees.

There is no specific system in place for ICE detainees to contact ICE officials. According to Officer (b)(6), (b)(7)(c) detainees can contact the ICE office through regular mail or by phone (although there is no policy in place to allow detainees to contact ICE for free). The delegation hopes that Pamunkey adopts a formal system through which detainee questions, complaints, or other communications are sent to ICE and makes the detainees aware of such a system.

V. CONCLUSION

Overall, the delegation feels that the staff of Pamunkey has a positive attitude regarding the *Standards* and is taking positive steps towards implementing the *Standards*. However, in some instances the delegation observed important *Standards* that were not being fully implemented at the facility.

With respect to phone access, Pamunkey should provide free phone access to the organizations required under the *Standards*, such as the local immigration court, the Board of Immigration Appeals, Federal and State courts, consular officials, legal service providers, and relevant government offices, including ICE offices. Pamunkey should also make all detainees aware of their right to contact their attorneys for free via phone in a private room without monitoring. Further, in respecting detainees’ communications with their lawyers, Pamunkey should set up a system whereby any messages from attorneys to detainees are immediately and confidentially delivered to the detainees.

With respect to the law library at Pamunkey and detainees’ access to legal materials, Pamunkey should acquire adequate computer equipment for the law library. Pamunkey should grant access to all detainees who sign up to use the law library. Again, several detainees stated that they signed up for access to the law library, but were never granted such access. Pamunkey should also attempt to acquire all of the required law library materials and should attempt to acquire legal materials that are in Spanish.

In terms of medical care of detainees, Pamunkey should follow-up on all medical complaints by detainees, including providing each detainee who complains about a medical problem a trip to the medical unit. Pamunkey should also provide follow-up interviews with detainees to monitor detainees for mental health problems.

⁹⁷ Detention Operations Manual, Staff-Detainee Communication, Section III.B.

⁹⁸ Detention Operations Manual, Staff-Detainee Communication, Section III.B.1.

Finally, we suggest that ICE attempt to have more of a presence at Pamunkey. ICE officials should visit Pamunkey weekly, rather than monthly. Moreover, Pamunkey should set up a formal system for detainees to send complaints or questions to the appropriate ICE office, including free phone access to the relevant ICE offices.