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**MEMORANDUM**

August 23, 2005

**To:** John P. Torres, Acting Director, Office of Detention and Removal Operations, Immigration and Customs Enforcement

**From:** American Bar Association Delegation to the Passaic County Jail<sup>1</sup>

**Copies to:** [REDACTED] Associate Director, Commission on Immigration

**Subject:** Report Regarding Implementation of ICE Detention Standards at the Passaic County Jail

This memorandum summarizes information gathered at the Passaic County Jail (the “Jail,” “facility” or “PCJ”) and evaluates the facility’s implementation of Immigration and Customs Enforcement (“ICE”) Detention Standards (the “Detention Standards”). The information was obtained via observation and through interviews with immigration detainees, PCJ correctional officers, and ICE personnel during the delegation’s August 1, 2005 tour of the Jail.

**I. INTRODUCTION**

**A. ICE Detention Standards**

In November 2002, the Immigration and Naturalization Service (INS),<sup>2</sup> the predecessor to the United States Immigration and Customs Enforcement (ICE), promulgated a set of Detention Standards to ensure the “safe, secure and humane treatment” of immigration detainees. The thirty-eight standards contained in the Detention Operations Manual cover a broad spectrum of issues ranging from visitation policies to grievance procedures to legal access. These

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<sup>1</sup> The delegation was composed of the following attorneys and summer associates from Latham & Watkins LLP: [REDACTED] b6, [REDACTED] b6, [REDACTED] b6, [REDACTED] b6, [REDACTED] b6, and [REDACTED] b6

<sup>2</sup> Effective March 1, 2003, the immigration enforcement functions which previously had been handled by INS were transferred to Immigration and Customs Enforcement (“ICE”), a division of the newly created Department of Homeland Security.

standards apply to ICE-operated detention centers and other facilities that house immigration detainees pursuant to contracts or intergovernmental service agreements (“IGSA”).<sup>3</sup>

The Detention Standards constitute a “floor” rather than a “ceiling” for treatment of immigration detainees. In other words, they are designed to establish the minimum requirements to which ICE must adhere at its facilities. Each Field Office or Officer-in-Charge has discretion to promulgate policies and practices affording ICE detainees enhanced rights and protections, above and beyond those provided for by the Detention Standards.

The Detention Standards became effective at ICE-operated detention facilities on January 1, 2001. ICE intended to phase in the Detention Standards at all of its contract and IGSA facilities by December 21, 2001.

### **B. The Delegation’s Visit to Passaic County Jail**

On Monday, August 1, 2005, the members of our delegation traveled to Paterson, New Jersey, to tour the Passaic County Jail. Upon our arrival, we were greeted by Lieutenant [REDACTED] (ICE), Captain [REDACTED] (PCJ), and Detective [REDACTED] (PCJ), who accompanied us on the tour. We were also met by Officer [REDACTED] who accompanied us for part of the tour.

Upon entry, we immediately began touring the facility. We visited the female housing unit, Program Services, the law library, the Office of the Ombudsman, the chapel, visiting rooms, attorney conference rooms, the classification dorm, and the three different “cages” of male dorms. We then toured the new medical wing, which is not yet in operation. Finally, we interviewed three individual detainees regarding their experiences at the Jail. Throughout our tour and while waiting for the detainees to be brought in for their interviews we were able to ask general questions of the officers.

This report is a compilation of information gathered during discussions with ICE and PCJ personnel, observations of the facility, and interviews with individual detainees. In some instances, detainee reports were consistent with our observations and statements made by facility personnel and, therefore, we were able to conclusively determine the extent to which PCJ policy and procedures conformed to the Detention Standards. With regard to certain topics, however, detainee reports and/or our observations conflicted with information provided by the officers. In these situations we were not able to conclusively determine the extent of the Jail’s implementation of the Detention Standards. These instances are noted below.

### **C. General Information About the Passaic County Jail**

The Passaic County Jail, opened in 1951, has an average daily population of over 2,000 individuals. The primary function of the Jail is to house prisoners committed to jail by county municipal court judges and inmates remanded to the Jail by the Passaic County Superior Court. However, pursuant to contracts with ICE and other government agencies, the Jail also houses immigration detainees. According to Jail personnel, about three quarters of the detainees housed

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<sup>3</sup> [www.ice.gov/graphics/dro/opsmanual/index.htm](http://www.ice.gov/graphics/dro/opsmanual/index.htm)

at PCJ have criminal records, although some have only committed minor offenses. Additionally, according to Jail personnel, almost all PCJ detainees have already been housed elsewhere prior to arriving at PCJ.

According to Lieutenant [b6, b7C] and Captain [b6, b7C] the Jail is at capacity, currently housing about 220 immigration detainees, including approximately twenty-six females. Immigration detainees are kept separate from the general population. Male and female detainees are also kept separately, and the male detainees are placed in one of three “cages” based on a three-level classification system. The housing consists of multiple bunk beds, with a television, picnic tables, showers and toilets (the number varying for female and male housing). The women’s housing was temperate the day we visited, as windows across the hall were open. The men’s housing was quite warm – many detainees were wearing only their boxer shorts or boxer shorts and tee-shirts. Although large fans had been placed in the hallway outside, ventilation was still poor. The detainees, both male and female, eat in their housing quarters.

## II. IMPLEMENTATION OF LEGAL ACCESS STANDARDS

### A. Visitation

The Detention Standards provide that facilities holding ICE detainees should permit visitations by legal representatives, family and friends of the detainees, the news media, and non-governmental organizations (NGOs).<sup>4</sup>

#### 1. Visitation by Attorneys

Access to legal representation is fundamental to due process and adequate procedures for visits by legal representatives, legal assistants and consular officials is an important step in securing the legal rights of detainees. According to the Detention Standards, legal visitations should be allowed seven days a week for a minimum of eight hours on weekdays, and four hours on weekends and holidays.<sup>5</sup> **In our opinion, the Jail has generally effectively implemented this section of the Detention Standards.**

According to the PCJ Inmate Handbook (the “Handbook”), attorney visits are granted without notice during regular visiting hours and upon special request.<sup>6</sup> Attorneys may visit their clients seven days a week, both during and after normal visiting hours. The PCJ officials said the Jail tries to be as flexible as possible to accommodate a detainee’s ability to meet with his or her attorney. PCJ officials informed the delegation that scheduling of legal visits is flexible, and legal visits are not limited to normal visiting hours. According to PCJ officials, there is also no limit placed on the length or frequency of attorney visits. A yellow sign on the wall indicated that morning conferences must conclude at 11 a.m., and afternoon conferences by 2:45 p.m., but it is not known whether this rule is implemented, as PCJ officials stated that nothing curtails a detainee’s access to his or her legal representative.

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<sup>4</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 17, Section I.

<sup>5</sup> *Id.* at Section III.I.2.

<sup>6</sup> PCJ Inmate Handbook at 13 (attached).

For instance, when an attorney meeting overlaps with prison activities, the officials allow the meeting to continue. Detainees may continue their meetings through official counts, meals or recreation time. According to Captain [REDACTED] b6, b7C if a detainee misses a meal, the officials attempt to have a sack meal brought to the detainee. Alternatively, the meal is stored until the detainee returns to his or her cell. However, if recreation time is missed, it is not made up later in the day. One detainee's comments were consistent with Captain [REDACTED] b6, b7C on both counts.<sup>7</sup>

The Handbook requires that, to meet with a client, attorneys must acquire an official ID card issued by the Passaic County Sheriff's Department Identification Bureau.<sup>8</sup> Such identification cards are issued upon presentation of a bar card at the initial visit and are required for all subsequent access. However, PCJ officers suggested that many visiting lawyers are known to the staff and are able to gain access to their clients without obtaining such IDs.

There are thirteen conference rooms available for legal purposes (10 small, 1 large, and 2 video rooms). The visitation rooms satisfy the definition of "private" in the Detention Standards, as the rooms allow the attorney to conduct a meeting with possible visible observation, but no audio observation.<sup>9</sup> PCJ staff state that they cannot hear what is said between the detainee and lawyer once the door is closed. Visiting attorneys and detainees are subject to pat-down searches before and after visitations.<sup>10</sup> In accordance with the Detention Standards, PCJ staff do not conduct strip searches unless they have reasonable suspicion that contraband has been exchanged. PCJ officials stated they have had a real problem with attorneys bringing in contraband, such as cigarettes. PCJ officials stated these rooms had phones which could be used for translation services.

PCJ allows detainees to keep legal documents given to them "to a reasonable extent." This amount was described as equivalent to a stack of documents 3 – 4 inches thick. Because there is limited storage space in the cell for personal belongings, PCJ officials said that anything more must be placed in storage and is retrieved when requested by a detainee.

Upon arrival, detainees are given a handout regarding contact information for *pro bono* attorneys. This information is also part of a file folder tied to the bars near the phone. The information in the folder in the cell is available in English only.

## 2. Visitation by Family and Friends

<sup>7</sup> See Summary of Interview with detainee [REDACTED] b6, b7C (hereinafter [REDACTED] b6, b7C Summary"). Mr. [REDACTED] b6, b7C also confirmed he was generally given enough time with his lawyer, but complained that no restroom breaks are permitted during attorney visits.

<sup>8</sup> PCJ Inmate Handbook at 13.

<sup>9</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 17, Section III.I.9 ("Visits between legal service providers (or legal assistants) and an individual detainee are confidential and shall not be subject to auditory supervision.").

<sup>10</sup> *Id.* at Section III.I.11 (SPCs/CDFs should normally subject detainees returning from legal visitations to pat-down searches. Officers may, however, strip-search a detainee reasonably suspected of concealing contraband of any kind.).

ICE, through the Detention Standards, encourages visits by family and friends to maintain detainee morale and family relations. In addition, visitations by the news media and NGOs increase the level of transparency and better informs the public of detention operations.<sup>11</sup> The Detention Standards require that all detention facilities allow visitation and establish written visitation procedures.<sup>12</sup> According to the Detention Standards, each facility should permit a minimum of 30 minutes for visitations under normal conditions and is encouraged to offer more generous limits when possible, especially for family members traveling significant distances.<sup>13</sup> Each facility, however, must operate within the constraints of its detainee population and security concerns.<sup>14</sup> **We believe that the Passaic County Jail implements this section of the Detention Standards, but has established a system that can be confusing.**

The visiting schedule is included in the Handbook.<sup>15</sup> Detainees, like the rest of the inmate population, are provided certain days and hours for visitation according to the first letter of their last name. For example, the Handbook visiting schedule for male detainees is reprinted below:

Hour	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
7:30 – 9:00 a.m.	M	WXYZ	GH	S	B	NOPQR	A
9:30 – 10:30 a.m.	L		IJK	TUV	C		B
1:00 – 2:00 p.m.	R	NOPQ	A	WXYZ	A	LM	C
6:00 – 7:00 p.m.	S		B	LM	DEF	S	DEF
7:30 – 9:00 p.m.	T		C	NOPQ	GH	TUV	GH
9:00 – 10:00 p.m.	UV		DEF	R	IJK	WXYZ	IJK

This schedule can be confusing; one detainee interviewed noted that one of the officers in the Ombudsman’s Office had to explain the visitation policy to his wife and family over the

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<sup>11</sup> Detention Operations Manual, ICE Detention Standards, Visitation, Detainee Services Standard 17, Section I.

<sup>12</sup> *Id.* at Section III.A.

<sup>13</sup> *Id.* at Section III.H.1.

<sup>14</sup> *Id.*

<sup>15</sup> PCJ Inmate Handbook at 14.

phone.<sup>16</sup> When possible, the PCJ officials said that the schedules of individual visitors will be accommodated, and they will not be restricted to these time blocks.

The Handbook establishes that detainees are entitled to “at least two non-contact visits for a minimum of 15 minutes each per week depending on time and space availability.”<sup>17</sup> The Handbook also provides that visitation periods can be extended as circumstances warrant.<sup>18</sup> Detective [REDACTED] b6, b7C said visits with family and friends ideally last a minimum of twenty minutes. However, when there is a backlog and the visiting schedule is crowded, they acknowledged that this time can be cut short. PCJ staff did note that if space allowed for it, they would allow visits to continue for an extended period of time. Captain [REDACTED] b6, b7C also stated that, if a visitor was traveling great distances or had other extenuating circumstances, he reviewed and granted wherever possible special requests, such as permitting visits every day for five days. One detainee noted that special accommodations were in fact made for him when his daughter visited from Florida. However, he complained that his regular visits can often be as short as five to ten minutes.<sup>19</sup> Another detainee complained that his visitors often were not accommodated and visits never lasted more than twenty minutes, despite the fact that he has never seen the visitors’ booths full.<sup>20</sup> However, we could not ascertain to what extent the detainee had attempted to obtain a variance for his visitors.

PCJ does not allow any “contact” visits between detainees and their friends or family. The only contact visits permitted are with attorneys or religious personnel. We were informed this policy was for security purposes and to prevent the introduction of contraband into the facility. All visits take place at one of the non-contact visitation booths. PCJ has many non-contact booths available, each with Plexiglas dividers and two phones for visitors to communicate with the detainee.

The only requirement for visiting with a detainee is the presentation of a valid photo identification. The PCJ officials said anyone is permitted to visit a detainee and no pre-approved list, announcement of visit, or forms need to be completed. Captain [REDACTED] b6, b7C did note that a visitor with an outstanding warrant will be arrested. PCJ permits minors to visit the facility.

PCJ does not allow for visitation between different cell blocks, even for relatives, because of security concerns. However, one PCJ staff member said that if two relatives were being held in different cells, they could request a transfer to be housed together and, so long as their was no security risk, it would likely be granted.

Detainees are permitted to maintain personal accounts (J-Pay) in which visitors may deposit money for use at the commissary. Money may be deposited into these accounts either in person at the front entrance, by mail, or electronically. Money earned through the volunteer work program is also deposited in these accounts.

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<sup>16</sup> See Summary of Interview with detainee [REDACTED] b6, b7C (hereinafter [REDACTED] b6, b7C Summary”).

<sup>17</sup> PCJ Inmate Handbook at 14.

<sup>18</sup> *Id.*

<sup>19</sup> See [REDACTED] b6, b7C Summary.

<sup>20</sup> See [REDACTED] b6, b7C Summary.

## B. Telephone Access

The Detention Standards require that facilities holding ICE detainees permit reasonable and equitable access to telephones.<sup>21</sup> To meet this requirement, facilities must provide written telephone access rules to each detainee upon admittance and at least one telephone for every 25 detainees.<sup>22</sup> **Passaic County Jail has not fully implemented the telephone access standards.**

During our tour of the facility, we observed that detainees have constant access to payphones in their “cages,” and the ratio of detainees to phones meets the minimum standards required.<sup>23</sup> Each male cell had four payphones in it to service the fifty-eight male detainees in the cell (1 for every 14.5). The female detainees had three phones for use between 13 detainees (1 for every 4.3). These phones are active twenty-four hours a day, except during shipment, when all phones in the facility are deactivated for security purposes. Instructions for use of the payphones are posted next to phones in both Spanish and English.

One major problem with telephones is a lack of privacy. The only options for phones are the ones located in the corner of the cell or in the Office of the Ombudsman.<sup>24</sup> Therefore, all calls occur in front of officers and/or fellow detainees. The Ombudsman’s office is a small, crowded room with a number of PCJ officials consistently present, and the “private” phone is in the middle of that open office. We were told that it was impossible to clear the room to allow for a truly private conversation between detainee and attorney.<sup>25</sup> To make such a call, detainees fill out “call request” slips, which Corporal [b6, b7C]<sup>26</sup> said were picked up daily. However, one detainee reported that such a request could take up to 10 days to be fulfilled.<sup>27</sup>

Other problems detainees discussed include the cost of phone calls and the inability to make collect calls. Though calling cards are available in the commissary, one detainee said that most people prefer to call collect because of the high cost of the calling cards.<sup>28</sup> He said that the cost to call to New York is \$4.89 for the first minute and \$0.89 for each additional minute.<sup>29</sup> PCJ officials noted there had been several complaints regarding collect calls which were either blocked or denied by the phone company, but blamed this on the failure of call recipients to pay

<sup>21</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 16, Sections I & III.A.

<sup>22</sup> *Id.* at Sections III.B & C.

<sup>23</sup> *Id.* at Section III.C (requiring 1 phone for every 25 detainees).

<sup>24</sup> Observations of delegation member [b6]

<sup>25</sup> One of the officers in the Ombudsman’s Office noted that PCJ was trying to set up a separate room on the third floor to allow for more privacy, but it was still in process.

<sup>26</sup> Corporal [b6, b7C] is the primary contact for the detainees in the Ombudsman’s Office.

<sup>27</sup> *See* Summary of Interview with detainee [b6, b7C] (hereinafter “[b6, b7C] Summary”).

<sup>28</sup> For instance, Mr. [b6, b7C] stated that he has spent over \$4,000 calling his family in New York City in the six months he has been detained at the facility. *See* Evans Summary.

<sup>29</sup> *See* [b6, b7C] Summary. Another detainee told us that the price was \$4.95/first minute and \$0.89/subsequent minutes outside of New Jersey and about \$1.25/first minute and \$0.15-.17/subsequent minute inside New Jersey. *See* [b6, b7C] Summary. Captain [b6, b7C] and Mr. [b6, b7C] said that most of the detainees are from NY.

their bills. One detainee disputed this.<sup>30</sup> Also, the phones do not accept incoming calls. This combination of high calling card rates, inability to receive incoming calls, and blockage of many collect calls presents a significant barrier to practical access to the phones.

The ICE standards also require that the detainees have access to their consulate through pre-programmed numbers. During the tour a detainee complained to a PCJ official that the connections to his consulate did not work. The detainee noted that other detainees had experienced similar problems. Captain [REDACTED] b6, b7C stated that the problem may be the consulate's failure to answer its phones. He agreed to order a check on the Jail's technology.

PCJ officials, and a detainee that was recently transferred to PCJ, reported that, upon arrival, detainees are permitted to make a free phone call to their family or attorney, informing them of the detainee's new location. Since security precautions make it impossible to notify family before a transfer, the Ombudsman Office makes a point of collecting new arrivals from the "Classification Dorm" and taking them to the office for a private call. Corporal [REDACTED] b6, b7C of the Ombudsman's staff told us that the general policy was to allow detainees to place their private call with a one-minute time limit and then await a return call from the family or attorney, so that the outside party is paying the fee. However, the initial call notifying family of the transfer is paid for by the government. One detainee confirmed this and stated this initial call lasted 15 to 20 minutes.<sup>31</sup>

The phones in the cell do not accept pre-programmed numbers for *pro bono* attorneys. Detainees must rely on collect calls or calling cards.<sup>32</sup> Corporal [REDACTED] b6, b7C said that all detainees are given one free call when they arrive to notify their family and/or attorney of their location. He also noted that the Office knows how much money each detainee has in his or her account and, if they have money, they are to use it. The Office does keep a call log.

There appear to be no pre-programmed phones for calling the local immigration court or the Board of Immigration Appeals or to consular offices as laid out in the Detention Standards.<sup>33</sup> We asked both Captain [REDACTED] b6, b7C and an officer in the Ombudsman's Office and were told that the phones in the cells or in the office were the only ones available to detainees. However, there were phones in each of the attorney visitation rooms for use during detainee meetings, which could be used to reach certain facilities. There are also new phones in each of the medical isolation cells in the new medical wing.

Notices on the wall, in both Spanish and English, explain how to operate the phone system.<sup>34</sup> In addition, a packet of information is given to all new arrivals that contains contact information for *pro bono* attorneys and foreign consulates. These consular codes and

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<sup>30</sup> See [REDACTED] b6, b7C Summary.

<sup>31</sup> *Id.*

<sup>32</sup> Notes of delegation participant [REDACTED] b6 based on conversations with Detective [REDACTED] b6, b7C and detainee [REDACTED] b6, b7C

<sup>33</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 16, Section III.E.

<sup>34</sup> While these notices were missing from one of the women's "cages," Captain [REDACTED] b6, b7C stated that they had been taken down to have the wall painted and would be replaced shortly.

instructions are provided in both languages. These papers are also available in a file folder tied to the bars near the phones.

Representatives of the Ombudsman's staff, including Corporal [b6, b7C], stated that emergency call messages are delivered, and detainees are taken to the office as soon as practicable to return the call. However, they said no other messages were delivered because they were not "an answering service." This is in contravention of the Detention Standards.

PCJ employs an on-site Information Technology Department which is responsible for handling technology problems with the phone system. Once detainees notify PCJ staff of a problem, these individuals are called to address the situation.

### C. Access to Legal Materials

The Detention Standards require that all detention facilities shall permit detainees access to a law library. The facilities also must provide legal materials, equipment, document copying privileges, and the opportunity to prepare legal documents.<sup>35</sup>

**The Passaic County Jail has successfully implemented some sections of the Detention Standards regarding access to legal materials. However, it has failed to implement several other sections of this Detention Standard, which the delegation believes prevents detainees from having meaningful access to legal materials.**

#### 1. Access to the Library

The Detention Standards require that a detention 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.<sup>36</sup> Law library hours are to be scheduled between official counts, meals, and other detention functions.<sup>37</sup>

PCJ policies theoretically implement this section of the Detention Standards. However, the reality of detainee access to the law library remains a concern. The Handbook permits detainees to use the law library if they submit a written request to Program Services for scheduling.<sup>38</sup> Program Services then allocates the use of the law library based on the level of demand expressed by the detainees. Captain [b6, b7C] said that detainees are permitted 2-hour visits, 2-3 times per week. They can ask for extended hours, which are usually granted. He also said the library has new LexisNexis software which is updated by ICE. **In contrast, one detainee reported that detainees often submit several requests before receiving library time and do not get their full allotment of time, in contradiction of the Detention Standards.**<sup>39</sup>

#### 2. Library Conditions

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<sup>35</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 1, Section I.

<sup>36</sup> *Id.* at Section III.G.

<sup>37</sup> *Id.*

<sup>38</sup> PCJ Inmate Handbook at 21.

<sup>39</sup> *See* [b6, b7C] Summary.

The Detention Standards state that each detention facility shall provide a law library in a designated room with sufficient space to facilitate detainees' legal research and writing. The library shall contain a sufficient number of tables and chairs in a well-lit room that is reasonably isolated from noisy areas.<sup>40</sup>

**The PCJ facility has implemented this section of the Detention Standards.** Although our delegation was not actually permitted to enter the library, we were allowed to look in from the doorway as Captain [b6, b7C] talked with a law clerk and other detainees. From what could be seen, it appeared the law library is well-lit and reasonably isolated from noisy, high-traffic areas that might interfere with research and writing. It appeared to be large enough to accommodate approximately 10 people, with several large tables and chairs.

### 3. Materials Identified in the *Detention Standards*

The *Detention Standards* require all law libraries to contain the legal materials listed in Attachment A to the chapter on *Access to Legal Material*.<sup>41</sup> The Detention Standards require that these legal materials also be updated regularly. More specifically, the detention facility must add information on significant regulatory and statutory changes regarding the detention and deportation of aliens in a timely manner.<sup>42</sup> Furthermore, stolen or damaged materials must be prompted replaced by the facility.<sup>43</sup> The Detention Standards require that the facility post a list of holdings in the law library and designate an employee responsible for updating materials, inspecting them weekly, and maintaining them in good working order.<sup>44</sup>

**The PCJ does not meet all of the provisions of this section of the Detention Standards.** No list of the library's holdings was evident. Upon request, Captain [b6, b7C] told us that he would have to have a list compiled to be sent to our delegation. As promised, about one week after our visit, Captain [b6, b7C] faxed us a list of the library's holdings. The list looked as if it had been prepared pursuant to our request.

**The library's print material is apparently lacking some major sources recommended by the ICE standards.**<sup>45</sup> According to the list faxed by PCJ, the library's print materials lacked some of the basic treatises on Immigration and the rights of prisoners, lacked the Federal Civil Judicial Procedure and Rules, and lacked any translation dictionaries. The only dictionary in the library is Ballantines Law dictionary. The Handbook and orientation materials were not available, telephone books were not available, and no self-help books were listed. A significant amount of material is listed as available on the LexisNexis system. However, access to this material requires significant computer literacy, knowledge of English, and access to one

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<sup>40</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 1, Section III.A.

<sup>41</sup> *Id.* at Section III.C.

<sup>42</sup> *Id.* at Section III.D-F.

<sup>43</sup> *Id.* at Section III.F.

<sup>44</sup> *Id.* at Section III.C.

<sup>45</sup> Comparison of the list of library holdings to the ICE required library list was somewhat hindered by the lack of authors and the lack of familiarity of the law clerk with standard title notation. A few of the titles assumed absent may therefore actually be in the library or available in a different form.

of the five computers. The delegation could not assess the condition of the print materials in the library from its vantage point in the doorway.

According to the Handbook, updates of the library material are performed on the first two sessions on the second Wednesday of every month, during which the library is closed.<sup>46</sup> At the time of the visit we were told that the books are updated by the law clerks, who are also responsible for requesting books that are not available. The record of the update is kept by hand in a hardbound journal. The last two months of updates indicated only updates to the West Digest. While a PCJ employee photocopied the last two months of updates for the delegation, Captain [REDACTED] b6, b7C did not turn them over to the delegation. It is unclear whether the updating procedure for PCJ is sufficient to adequately update the required legal materials for detainees. ICE updates to Lexis are performed by ICE personnel, and no record of those updates is kept by PCJ.

The view from the doorway indicates that the only book storage areas were bookcases on the top half of the walls, as well as a small cart in the corner. The bookcases on the walls were largely filled with old copies of the West Digest.

#### 4. Computer Access, Equipment and Holdings

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.<sup>47</sup>

**It appears that the facility generally meets this section of the Detention Standards.** PCJ personnel claimed that the library is equipped with five computers which have Lexis software and that the software is regularly updated by ICE. We were not able to check the status of the computers, although several appeared operational. A detainee who works as a law clerk in the library confirmed that the computers are new, but stated that no information can be saved so it is difficult to use them effectively.<sup>48</sup> The law library is closed the first two sessions on the second Wednesday of every month so that computer maintenance can be completed.<sup>49</sup>

The Handbook states that inmates shall have access to “legal supplies and material for preparing legal papers, such as writing paper, carbon paper, reproduction equipment, and mailing envelopes.”<sup>50</sup> We were told that equipment is available for free to ICE detainees, though one detainee expressed difficulty in getting supplies.<sup>51</sup> Detective [REDACTED] b6, b7C stated that ICE detainees can print free of charge to the printers in the office across the hall “within reason,” and that

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<sup>46</sup> PCJ Inmate Handbook at 22.

<sup>47</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 1, Section III.B.

<sup>48</sup> See [REDACTED] b6, b7C Summary.

<sup>49</sup> PCJ Inmate Handbook at 22.

<sup>50</sup> *Id.*

<sup>51</sup> See [REDACTED] b6, b7C Summary (stating that only 400-500 sheets of paper were provided for the entire population each week).

detainees' material is delivered to them in their cell. Captain [REDACTED] stated that detainees complained that material sometimes was not delivered.

## 5. Photocopies

The Detention Standards require that each facility shall ensure that detainees can obtain photocopies of legal materials, when such copies are reasonable and necessary for legal proceedings involving the detainee.<sup>52</sup> The facility must provide enough copies so that a detainee can fulfill court procedural rules and retain a copy for his records.<sup>53</sup> Additionally, facility personnel are prohibited from reading documents that on its face is clearly related to a legal proceeding involving the detainee.<sup>54</sup>

**The PCJ appears to satisfy this section of the Detention Standards.** To make copies of their legal materials, detainees must complete a “Please Give” slip for the staff of Program Services, who will then attach the slip to the legal materials and forward it to the Ombudsman’s Office for processing.<sup>55</sup> The cost for photocopying and/or printing legal materials is 10 cents per page,<sup>56</sup> however, which is prohibitive to an indigent detainee. There is no maximum amount of copies for legal materials for detainees.<sup>57</sup>

Detective [REDACTED] said that detainees can make photocopies free of charge “within reason” in the office across from the library. One detainee<sup>58</sup> who works as a law clerk in the library stated that it can take many weeks for copies to be made, so people end up just pulling out the pages that they want.

## 6. Correspondence and Other Mail

The Detention Standards require that detainees be permitted to send and receive correspondence in a timely manner, subject to limitations required for the safety, security, and orderly operation of the facility.<sup>59</sup> General detainee correspondence shall be opened and inspected in the presence of the detainee, but may be opened and even read outside the presence of the detainee when security considerations so require.<sup>60</sup> Special correspondence—which includes all written communication to or from attorneys, legal representatives, judges, courts, government officials, and the news media—is treated differently by the facility.<sup>61</sup> Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but

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<sup>52</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard I, Section III.J.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at Section III.J.

<sup>55</sup> PCJ Inmate Handbook at 22.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *See* [REDACTED] Summary.

<sup>59</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 4, Section I.

<sup>60</sup> *Id.* at Sections III. B. & E.

<sup>61</sup> *Id.* at Sections III.B., E., & F.

it can never be read or copied by the facility.<sup>62</sup> Outgoing special correspondence cannot be inspected, opened, or read.<sup>63</sup>

PCJ officials stated that pickup and delivery of mail occurs on a daily basis for detainees and that every effort is made to process the mail as quickly as possible. The Handbook states that mail will be delivered within 24 hours after it is received.<sup>64</sup> Detective [REDACTED] b6, b7C stated that all mail is opened and inspected in front of detainees and they are given all contents and the return address from the envelope. Detective [REDACTED] b6, b7C also reported that no outgoing mail is opened or inspected. According to Captain [REDACTED] b6, b7C indigent detainees are provided with free legal mail and are given the opportunity to send some free personal mail. Captain [REDACTED] b6, b7C said that paper and envelopes are provided. One detainee expressed concern about a lag in mail delivery, noting that his sister mailed a letter from Brooklyn one week earlier, and he had not yet received it.<sup>65</sup>

#### **D. Group Rights Presentations**

The Detention Standards require that facilities shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them about U.S. immigration law and procedures consistent with the security and orderly operation of the ICE facility.<sup>66</sup>

**PCJ appears to satisfy this section of the Detention Standards, although there do not seem to be many presentations currently at PCJ.** Personnel at PCJ stated that “Know Your Rights” presentations have been conducted at the facility, and the groups generally ask for the new detainees only. Captain [REDACTED] b6, b7C commented that pro bono groups have not been turned down, and in his opinion, did not ask to come to PCJ often enough.

PCJ personnel identified a TV in a corridor of the Jail as the machine on which detainees were shown the ICE video. Conditions in the corridor were noisy, with no place to sit. Detective [REDACTED] b6, b7C noted that these presentations occurred only when outside groups contacted the Jail to request the opportunity. One detainee stated that there are no group presentations now; he said that [REDACTED] b6 group [The Legal Aid Society in New York] had done them, but that he had not seen Mr. [REDACTED] b6 group there in a long time.<sup>67</sup>

### **III. OTHER PROVISIONS OF THE ICE DETENTION STANDARDS**

#### **A. Site-Specific Detainee Handbook**

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<sup>62</sup> *Id.* at Sections III.B. & E.

<sup>63</sup> *Id.* at Sections III.B. & F.

<sup>64</sup> PCJ Handbook at 12.

<sup>65</sup> *See* [REDACTED] b6, b7C Summary.

<sup>66</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 9, Section I.

<sup>67</sup> *See* [REDACTED] b6, b7C Summary; *see also* [REDACTED] b6, b7C Summary (Mr. [REDACTED] b6, b7C reported that he may have seen a video when he was processed in New York, but it was loud in the room and difficult to hear. He does not recall seeing any video at PCJ).

The Detention Standards require that all detention facilities provide their immigration detainees with a site-specific handbook. The purpose of the handbook is to provide an overview of, and guide to, “the detention policies, rules, and procedures in effect at the facility,” as well as “the services, programs, and opportunities available through various sources.”<sup>68</sup> The handbook must be translated into Spanish, and, if appropriate, into the next most-prevalent language(s) among the facility’s detainees.<sup>69</sup> All detainees are to receive a copy of the handbook upon admission to the facility.<sup>70</sup>

The PCJ has an “Inmate Handbook” which is available in English and Spanish. The Handbook is supposed to be provided to all detainees, however the office was out of the Spanish version at the time of our visit.<sup>71</sup> One detainee who had been at the Jail for ten days indicated that he had received a Handbook.<sup>72</sup> **The delegation has some serious concerns about the Handbook.** The Handbook is intended for all inmates at the Jail and therefore fails to address concerns specific to immigration detainees, specifically, no information about ICE is included. Additionally, there are no provisions for communicating the information in the Handbook to the immigrant detainees who either do not speak English or Spanish or do not read. Finally, it appears that some parts of the Handbook are at odds with the reality of policies and practices. For instance, the Handbook states that detainees shall be given the opportunity to participate in at least one hour of exercise/recreation each day, but detainees interviewed indicate this is not the case (*see* discussion below).

## **B. Recreation**

The Detention Standards require that all facilities provide detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare.<sup>73</sup> Access should be a minimum of five days a week for an hour a day.<sup>74</sup> Every effort should be made to provide outdoor recreation facilities, but lacking such, the recreation room must be large, with exercise equipment and “access to sunlight.”<sup>75</sup> All facilities shall also have an individual responsible for the development and oversight of the recreation program.<sup>76</sup> According to the Detention Standards, exercise areas should offer a variety of fixed and movable equipment and cardiovascular exercise should be available to detainees for whom recreation is unavailable.<sup>77</sup>

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<sup>68</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 6, Section I.

<sup>69</sup> *Id.* at Section III.E.

<sup>70</sup> *Id.* at Section I.

<sup>71</sup> Notes of delegation member [REDACTED] based on conversation with Corporal [REDACTED]

<sup>72</sup> *See* [REDACTED] Summary.

<sup>73</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 13, Section I.

<sup>74</sup> *Id.* at Section III.B.1.

<sup>75</sup> *Id.* at Section III.A.1.

<sup>76</sup> *Id.* at Section III.F.

<sup>77</sup> *Id.* at Section III.G.1 & 2.

**The PCJ fails to meet, in large part, the Detention Standards regarding recreational programs and activities.** PCJ has one indoor weight room and two outdoor rooftop recreation areas for the entire Jail population. Detective [REDACTED] b6, b7C said there are tables within each of the detainees’ “cages” where they can watch television or engage in other sedentary activities such as playing cards and board games, provided they have formally requested such games from the guards. He stated that there is a recreation specialist present at the prison, and that while he does not tailor program activities and offerings specifically to the detainee population, he does supervise detainees engaged in recreation activities.

Captain [REDACTED] b6, b7C and Detective [REDACTED] b6, b7C stated that detainees are provided at least one hour of exercise/recreation per day, seven days per week, which exceeds the ICE standards. This is also stated in the Handbook.<sup>78</sup> Officers referred to a fixed “recreation rotation” whereby prisoners spend five days of the week using outdoor facilities and the remaining two using the indoor weight room. For instance, the weekly recreation schedule for the “Grand Street Rooftop Gym” appears below:<sup>79</sup>

Grand Street Roof Gym

Time	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
[ ] – 8:30 AM	4G1 4 Mar Aux	3G1 & 3G2	2G3 & 2G4	3G3 & 3G4	3G1 & 3G2	3G3 & 3G4	4G2 & 4G3
[ ] – 9:45 AM	4G2 & 4G3	2G1 & 2G2	3G3 & 3G4	2G1 & 2G2	2G3 & 2G4	4G1 4 Mar aux	2G1 & 2G2
[ ] – [ ] [ ]	2G3 & 2G4	2G3 & 2G4	4G2 & 4G3	3G1 & 3G2	4G1 4 Mar aux	2G1 & 2G2	3G1 & 3G2
[ ] – 2:00 PM	3G1 & 3G2	4G1 4 Mar aux	2G1 & 2G2	4G1 4 Mar aux	4G2 & 4G3	2G3 & 2G4	3G3 & 3G4
[ ] – 3:15 PM							
[ ] – 4:30 PM	Basement	Basement	Grand Street Females	Basement	Basement	2 Men Cells	Grand Street Females
[ ] – 7:00 PM	3G3 & 3G4	2 Men Cells	4-1 & 4-2	4-3, 4-3 & 4-5-Annex	4-3, 4-4 & 4-5-Annex	4G2 & 4G3	4-1 & 4-2
[ ] – 8:15 PM	4-3, 4-4 & 4-5-Annex	3 Men Cells	3 Men Cells	Grand Street Females	1-2	4-3, 4-4 & 4-5-Annex	3 Men Cells
[ ] – 9:30 PM	Grand Street Females	1-2	4G4	4G4	4G4	Grand Street Females	1-2
[ ] – 10:45 PM	4G4	Kit/WS & 1-1	Kit/WS & 1-1	Kit/WS & 1-1	Kit/WS & 1-1	4G4	Kit/WS & 1-1
[ ] pm to [ ] am							

[ ] advised that NO CHANGES are authorized on this schedule unless Administratively approved. There will be [ ] alterations. Be sure to check for “Keep Separates” on all movements. The assigned gym officer must report [ ] cellations in writing to the Tour Commander

**However, detainees indicate that recreation is rarely available for the frequency required by the ICE detention standards.** Despite the statements of the officers at the Jail, only one detainee stated he had received the required recreation time of one hour per day, seven

<sup>78</sup> PCJ Handbook at 25.

<sup>79</sup> This chart was included with the stapled materials provided by Corporal [REDACTED] b6, b7C Information that was illegible on the provided copy is noted by empty brackets.

days a week.<sup>80</sup> Two other detainees reported that they receive far less recreation than is required by ICE standards.<sup>81</sup> One detainee reported that he was allowed access to both the outdoor recreation area and the indoor weight room for forty-five minutes twice a week, and that sometimes several weeks would go by with no recreation at all.<sup>82</sup> Another stated that he did not receive daily recreation, but “only maybe 4 times a week...but not every day.”<sup>83</sup> No detainees complained about the operational status or conditions of the recreation equipment.

Also, Captain [REDACTED] b6, b7C acknowledged that inclement weather results in no recreation for inmates scheduled for the outdoors sessions, and such cancellations do not result in rescheduling for the weight room due to lack of space.<sup>84</sup> According to Captain [REDACTED] b6, b7C and Detective [REDACTED] b6, b7C recreation privileges are only revoked if and when a detainee’s behavior threatens the security of the detainee or those around him/her. Prisoners in SDU (Special Disciplinary Unit) receive only five days of recreation. Finally, as noted above, detainees visiting with their attorney are not granted make-up recreation time.

### C. Access to Medical Treatment

The Detention Standards require that all detainees have access to medical services that promote detainee health and general well-being.<sup>85</sup> 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.<sup>86</sup> For a facility of over 2000 detainees, a minimum of five days per week is required.<sup>87</sup> Facilities must also have procedures in place to provide emergency medical care for detainees who require it.<sup>88</sup> With respect to emergency care, the Detention Standards state that in a situation in which a detention officer is uncertain whether a detainee requires emergency medical care, the officer should immediately contact a health care provider or an on-duty supervisor.<sup>89</sup> If a detainee is diagnosed as having a medical or psychiatric condition requiring special attention (*e.g.*, special diet), the medical care provider is required to notify the Officer-in-Charge in writing.<sup>90</sup>

The Passaic County Jail has a medical facility on-site staffed by nurses 24 hours a day.<sup>91</sup> We did not tour the current medical facility, but toured the new one, currently under

<sup>80</sup> See [REDACTED] b6, b7C Summary.

<sup>81</sup> See [REDACTED] b6, b7C and [REDACTED] b6, b7C Summaries.

<sup>82</sup> See [REDACTED] b6, b7C Summary.

<sup>83</sup> See [REDACTED] b6, b7C Summary. It should be noted that this detainee also participates in voluntary work as a law library clerk, and it is not known whether his work hours conflict with scheduled recreation times.

<sup>84</sup> Captain [REDACTED] b6, b7C stated that PCJ has been considering enclosing the rooftop gyms.

<sup>85</sup> Detention Operations Manual, ICE Detention Standards, Health Services Standard 2, Section I.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* at Section III.A, D. and G.

<sup>89</sup> *Id.* at Section III.H.

<sup>90</sup> *Id.* at Section III.J.

<sup>91</sup> PCJ Inmate Handbook at 19.

construction.<sup>92</sup> This new facility has a waiting room and video surveillance. It has approximately 3 treatment rooms, as well as a nursing station. We were told that, in this facility, the medical records will be computerized, and pharmaceuticals will be stored in a locked room.

According to Captain [REDACTED] b6, b7C there are two full-time nurse practitioners and a doctor who is “in and out.” Additionally, PCJ officials said that there was a psychiatrist and psychologist that kept regular and emergency hours, and that an x-ray technician came in during the week. In addition to the twenty-four hour nursing staff, the prison has officers trained as EMTs. According to Captain [REDACTED] b6, b7C the officers also receive sixteen weeks of basic EMT training in the academy. Detective [REDACTED] b6, b7C said that first aid supplies are also available in each “cage.” Additionally, PCJ shares a wing at St. Mary’s with some other correctional facilities, and detainees are taken there whenever necessary.

Detective [REDACTED] b6, b7C stated that nurses were at the nurse’s station except when making daily rounds in the cellblocks. PCJ personnel stated that the nurses made rounds three times per day to give medications and take complaints. The Handbook says that sick call is usually held Monday through Friday during the morning hours.<sup>93</sup> According to the Handbook, “Those inmates who properly completed a request slip will be scheduled accordingly.”<sup>94</sup> PCJ officials indicated that detainees in need of special drug schedules are brought to the medical facility, where drugs are administered at the necessary times. According to PCJ officials, prison inmates and detainees are mixed in the medical facility, as needs dictate. During the tour, one detainee complained to Captain [REDACTED] b6, b7C that he had requested medical care for two weeks, but to no avail. Captain [REDACTED] b6, b7C asked a PCJ official to follow up on the complaint, and the official reported back that the nurse had just made rounds and no complaint was made by the detainee.

Detective [REDACTED] b6, b7C stated that PCJ does not take ICE detainees with suicide potential. He said the officers are trained to spot signs of suicidal ideation and that PCJ will send such detainees back to ICE.

**The delegation has serious concerns about PCJ’s implementation of the medical access Detention Standards.** Detainees interviewed complained about slow access to care, lack of medicine, improper provision of medicine, and problems addressing psychological problems. According to one detainee, medical treatment is slow and inattentive. He stated that when he hurt his knee, he was not able to see a doctor for two weeks. Additionally, he complained that the nurses came each day, but not on a regular schedule and not when necessary to deliver scheduled medication or be effective. He said the doctor was there only one or two times each week, and that the nurses would not “do anything” until the detainee had seen the doctor. This detainee said that there was no standard pattern in which the medications were given out, noting instances where the timing between insulin shots for diabetics and provision of food were inappropriate. The detainee stated that, although he does receive a “special diet,” it is not appropriate for his ailments. He also cited problems with receiving medications. He said that he is on three different medications, and that most weeks he misses at least one of them because the medicine

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<sup>92</sup> Captain [REDACTED] b6, b7C said that the new facility would open in about one week.

<sup>93</sup> PCJ Inmate Handbook at 19.

<sup>94</sup> *Id.*

runs out and there is no substitute. He said once he missed his medication for two weeks for this reason.<sup>95</sup>

Another diabetic detainee also complained about the medical care at the Jail. He stated that he often receives food that is inappropriate for a diabetic. He stated that Motrin is distributed as a panacea for practically all ailments. He complained of a time where it took the Jail three months to rectify a health problem: he had fluid leaking from his eyes due to his diabetes. Additionally, he complained of a circumstance in which dogs walked within a few inches of his legs as he sat in the medical ward.<sup>96</sup>

The Handbook calls for mental health screening to determine whether detainees are mentally ill or retarded.<sup>97</sup> The Handbook also says that a psychologist will be on duty at least five days a week, and that a psychiatrist is on call 24 hours a day, seven days a week.<sup>98</sup> Captain [REDACTED] b6, b7C said that both a psychiatrist and psychologist come in “on a regular basis,” though he could not say how often, and that they were available for emergencies at all times. PCJ officials also said that there were regular mental health screenings for detainees upon entrance to the facility. However, one detainee complained that he received no screening when he arrived, despite the fact that he arrived taking a medication for depression.<sup>99</sup>

#### **D. Dental Treatment**

The Detention Standards require detainees to have an initial dental screening exam within 14 days of the detainee’s arrival and require the facility to provide a number of services, including emergency dental treatment and repair of prosthetic appliances.<sup>100</sup> For detainees who are held in detention for over six months, routine dental treatment may be provided, 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.<sup>101</sup>

**The PCJ appears to meet this standard.** The Handbook says that dental care is available, and that detainees must fill out the proper request slip to see the institution’s dentist.<sup>102</sup> Detective [REDACTED] b6, b7C confirmed that dental care is provided on a request basis and covered “basic items.” Additionally, team members noted a specific room for dental care in the new medical facility.

#### **E. Detainee Classification**

<sup>95</sup> See [REDACTED] b6, b7C Summary.

<sup>96</sup> See [REDACTED] b6, b7C Summary. PCJ officials stated that dogs are still used with the inmate population but not deta

<sup>97</sup> PCJ Inmate Handbook at 20.

<sup>98</sup> *Id.*

<sup>99</sup> See [REDACTED] b6, b7C Summary.

<sup>100</sup> Detention Operations Manual, ICE Detention Standards, Health Services Standard 2, Section III.E.

<sup>101</sup> *Id.*

<sup>102</sup> PCJ Inmate Handbook at 7.

The Detention Standards require that detention facilities use a classification system and physically separate detainees in different categories.<sup>103</sup> A detainee's classification is to be determined on "objective" criteria, including criminal offenses, escape attempts, institutional disciplinary history, violent incidents, etc.<sup>104</sup> Opinions, unconfirmed and unverified information, and physical characteristics and appearance are not to be taken into account.<sup>105</sup> Classification is required to separate detainees with no or minimal criminal records from detainees with serious criminal records.<sup>106</sup> According to the Detention Standards:

By grouping detainees with comparable records together, and isolating those at one classification level from all others, the system reduces noncriminal and nonviolent detainees' exposure to physical and psychological danger.

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When it becomes necessary to house detainees of different classification levels the following guidelines shall be followed:

1. Level three detainees will not be housed with level one detainees.
2. Levels one and two may be mixed, and high level twos and level threes may be mixed, when a facility is at or above full capacity.
3. Under no circumstance will a level two detainee with a history of assaultive or combative behavior be placed in a level one housing unit.<sup>107</sup>

Additionally, all facility classification systems shall allow classification levels to be re-determined and include procedures by which new arrivals can appeal their classification levels.<sup>108</sup> Finally, the detainee handbook's section on classification must include (1) an explanation of the classification levels, with the conditions and restrictions applicable to each, and (2) the procedures by which a detainee may appeal his classification.<sup>109</sup> Detainees classification must be indicated by color coding of clothing and bracelets.

**Based on information provided by PCJ personnel, the PCJ has implemented a classification system. However, interviews with detainees, observations at the facility, and**

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<sup>103</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 3, Section I.

<sup>104</sup> *Id.* at Section III.D.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.* at Sections III.A & E.

<sup>107</sup> *Id.* at Section III.E.

<sup>108</sup> *Id.* at Sections III.G. & H.

<sup>109</sup> *Id.* at Section III.I.

**a review of the Handbook indicate that the system does not meet the Standard.** During the tour, the delegation was told that the facility did use a classification system that consisted of three levels. Level 1 was the classification for those prisoners who had the least severe criminal records, whereas Level 3 would include anyone with previous murder or rape convictions, among other things. Additionally, detainees are initially placed in a Classification holding area, where they stay for a maximum of 72 hours, pending classification and medical approval. Prison personnel examine each detainee and make “cage” assignments. Detainees who are unable to “get along” in the main cells may also be placed in the “Classification Dorm.”

PCJ fails to adequately explain the classification system in the Handbook. The Handbook does not explain the three classification levels, nor does it explain the procedures by which a detainee may appeal his classification. The Handbook states that detainees will be separated based on various factors, such as aggressive versus passive/dependent tendencies, only when “possible.”<sup>110</sup> Also, all ICE detainees receive yellow bracelets, regardless of categorization. There is no color coding implemented in bracelets or clothing, and no visible method of determining the level of a detainee.

One detainee stated that he did not think there was any true classification system and was quite concerned with the varied mix of backgrounds present in his cell.<sup>111</sup>

#### **F. Voluntary Work Programs**

The Detention Standards require all facilities with work programs to “provide detainees the opportunity to work and earn money.”<sup>112</sup> Detainees who are physically and mentally able to work must be provided the opportunity to participate in any voluntary work program.<sup>113</sup> As for those detainees who are physically or mentally challenged, the Detention Standards require facilities to allow those with less severe disabilities to have the opportunity to undertake “appropriate work projects.”<sup>114</sup> Facilities cannot deny “work opportunities based on non-merit factors, such as social group, race, religion, sex, physical or mental handicaps, or national origin.”<sup>115</sup> The Detention Standards also state that detainees must receive monetary compensation for work completed in accordance with the facility’s standard policy.<sup>116</sup>

**The PCJ has implemented this section of the Detention Standards.** Captain b6, b7C informed the delegation that detainees are provided with work opportunities such as cleaning the day room, assisting with laundry services and feeding processes, or working as law library clerks.<sup>117</sup> Pay for these services ranged from \$5 to \$14/week, depending on the activity. Salary

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<sup>110</sup> PCJ Inmate Handbook at 3.

<sup>111</sup> See b6, b7C Summary.

<sup>112</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 18, Section I.

<sup>113</sup> *Id.* at Section III.A.

<sup>114</sup> *Id.* at Section III.G.

<sup>115</sup> *Id.* at Section III.F.

<sup>116</sup> *Id.* at Section III.K.

<sup>117</sup> *Id.*

is put directly into the detainee's account and can be used at the commissary. According to one officer, two ICE detainees were regular law clerks at the law library. It is not known how many hours volunteers are expected to work, but Captain [REDACTED] told us that the jobs are mostly of "short duration." No detainees complained about an inability to work at the prison or about the conditions or procedures associated with the voluntary work program.

### **G. Detainee Disciplinary Policy**

The Detention Standards suggest that facility authorities "impose disciplinary sanctions on any detainee whose behavior is not in compliance with facility rules and procedures" in order "to provide a safe and orderly living environment."<sup>118</sup> Each facility holding ICE detainees must have a detainee disciplinary system which has "progressive levels of reviews, appeals, procedures, and documentation procedures."<sup>119</sup> Any disciplinary action must not be capricious or retaliatory and the following sanctions may not be imposed: "corporal punishment; deviations from normal food services; deprivation of clothing, bedding, or items of personal hygiene, deprivation of correspondence privileges; or deprivation of physical exercise unless such activity creates an unsafe condition."<sup>120</sup> In addition, the Standards provide that all incident reports filed by officers must be investigated within twenty-four hours of the incident.<sup>121</sup> An intermediate level of investigation or adjudication must be established to adjudicate low or moderate infractions.<sup>122</sup>

**The PCJ has not fully implemented this Standard.** The Handbook includes a list of rights of detainees and inmates,<sup>123</sup> but the list of rights does not include the "right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment."<sup>124</sup> In addition, although the Handbook includes a right to freedom of religious affiliation, it does not inform detainees of the "right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs[.]"<sup>125</sup>

The Handbook has a detailed set of guidelines that outline disciplinary policy.<sup>126</sup> The policy contains the rights of detainees and inmates, responsibilities, prohibited acts, and a schedule of sanctions for prohibited acts.<sup>127</sup> It states that, when a violation of a prohibited act

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<sup>118</sup> Detention Operations Manual, ICE Detention Standards, Security and Control Standard 5, Section I.

<sup>119</sup> *Id.* at Section III.A.I.

<sup>120</sup> *Id.* at Sections III.A.2 & 3.

<sup>121</sup> *Id.* at Section III.B. & C.

<sup>122</sup> *Id.* at Section III.C.

<sup>123</sup> PCJ Inmate Handbook at 27.

<sup>124</sup> Detention Operations Manual, ICE Detention Standards, Security and Control Standard 5, Section III.A.5.

<sup>125</sup> *Id.*

<sup>126</sup> PCJ Inmate Handbook at 27-38.

<sup>127</sup> *Id.* at 28-32.

occurs, a staff member must prepare an incident report and forward it to a supervisor.<sup>128</sup> PCJ officials told us that they try to resolve minor problems informally, but otherwise a report is written by the officer on duty and a Sergeant investigates before it is sent to the Tour Commander. The Tour Commander can change the report to an on-the-spot correction report or forward it to the Disciplinary Hearing Board for further disposition.<sup>129</sup> As a notification of the major violation charges, a copy of the disciplinary report must be served on the detainee or detainee within 48 hours of the violation, absent exceptional circumstances, and at least 24 hours prior to the disciplinary hearing. For major offenses, hearings are to take place before a hearing officer or disciplinary Board consisting of an impartial three member panel, including one custody supervisor, and two non-custody staff members.<sup>130</sup> Decisions of the Disciplinary Board are to be made by a majority vote.<sup>131</sup>

Detainees are entitled to a hearing within seven days of the alleged violation.<sup>132</sup> Anyone in pre-hearing detention is entitled to a hearing within three days, and this time may later be credited against any subsequent sentence.<sup>133</sup> Detainees are allowed to be present during the hearing, and they will be provided by counsel substitute (staff or detainee) when it is determined by the Disciplinary Board that the detainee is illiterate or cannot adequately collect and present the evidence on his or her own behalf.<sup>134</sup> While Captain [REDACTED] b6, b7C confirmed that this was the process, a detainee (who is a law clerk) disputed that detainees were permitted to have law clerks assist them at such hearings.<sup>135</sup> A detainee may call witnesses, make a statement and present documentary evidence, and have the opportunity to confront/cross examine his or her accuser and all adverse witness (unless it would cause security problems).<sup>136</sup> At the conclusion of the hearing, the Disciplinary Board will issue a written decision.<sup>137</sup> PCJ officials noted that a detainee might be re-classified based on a disciplinary problem, but that they do not have many disciplinary problems given the small number of detainees.

At the conclusion of the hearing, the detainee is advised of his or her right to appeal the decision to the Disciplinary Board, and given a written *Notice to Inmates of Rights on Appeal*. All appeals are to be submitted to the Ombudsman within 48 hours of the hearing. The appeals are reviewed by the Administration. The Administration may reduce, but not increase the sanction imposed by the Hearing Board.<sup>138</sup>

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<sup>128</sup> *Id.* at 32.

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> *Id.* at 33.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.* at 34.

<sup>135</sup> See [REDACTED] b6, b7C Summary.

<sup>136</sup> PCJ Inmate Handbook at 34.

<sup>137</sup> *Id.* at 35.

<sup>138</sup> *Id.* at 38.

Captain [REDACTED] stated that a Tour Commander can send a detainee to SDU for up to three days before a hearing (if the incident occurs over the weekend), and that if an infraction is found the detainee will be reclassified to another dorm. Detective [REDACTED] informed us that, if it is believed a detainee involved in a disciplinary infraction is mentally incompetent, an officer can refer that person to medical personnel for evaluation.

## H. Detainee Grievance Procedures

The Detention Standards require that every 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.<sup>139</sup> Translating assistance for both formal and informal grievances must be provided upon request.<sup>140</sup> The Detention Standards also require that each facility establish a reasonable time limit for: (1) “processing, investigating, and responding to grievances;” (2) “convening a grievance committee to review formal complaints;” and (3) “providing written responses to detainees who filed formal grievances, including the basis for the decision.”<sup>141</sup> All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.<sup>142</sup> Further, the Detention Standards require that detainee handbooks 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 Department of Justice (including the Department’s phone number and address).<sup>143</sup>

**The delegation has concerns regarding the facility’s implementation of this section of the Detention Standards.** The Handbook provides for an inmate grievance procedure, but one detainee complained about grievances being ignored despite repeated submissions.<sup>144</sup> According to the staff in the Office of the Ombudsman, as well as other officers at PCJ, minor complaints are often first addressed to the guards or officers in the cellblock. If the issue cannot be resolved by the guards, the detainee may be brought to the Ombudsman Office to speak with a member of the staff. Corporal [REDACTED] stated that the Office provides grievance forms to the detainees and assistance in completing the forms. Completed forms are passed to the Ombudsman office and then sent to the Classification Committee for screening. Detainees sign a form indicating agreement with, or lack of agreement with, the initial determination. Any appeal is forwarded to the Administration. Any issue concerning ICE services is forwarded directly to the ICE office in New York City. Detective [REDACTED] said “emergency” grievances are “controlled” by the floor supervisor, and then passed through the regular channels. Detective [REDACTED] and others also stated that every grievance is processed, even if the detainee had a history of filing “nuisance” grievances.

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<sup>139</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 5, Sections I & III.A.

<sup>140</sup> *Id.* at Sections III.A.1. & 2.

<sup>141</sup> *Id.* at Section I.

<sup>142</sup> *Id.* at Sections I. & III.C.

<sup>143</sup> *Id.* at Section III.G.

<sup>144</sup> *See* [REDACTED] summary.

The delegation was informed that the form signed after the initial resolution of the issue indicated to the detainee that an appeal period was available. However, the form reviewed by the delegation simply provides for the detainee to check “I disagree with the resolution and request further administrative action.”<sup>145</sup>

Despite the Handbook’s brief description of the policy, individual detainees did not think that the process ran as stated. One detainee complained that the administration did not seem to respond to grievances and estimated that only 10% of all grievances were answered. He also stated that retaliation was a problem, but would not elaborate.<sup>146</sup>

### **I. Detainee Transfer**

ICE frequently transfers detainees from one facility to another for a variety of reasons.<sup>147</sup> ICE takes into consideration whether the detainee is represented before immigration court.<sup>148</sup> In these cases, Field Officer Directors consider the detainee’s stage within the removal process, whether the attorney of record is located within a reasonable driving distance of the detention facility, and where the immigration court proceedings are taking place.<sup>149</sup>

When legal counsel represents a detainee and a G-28 has been filed, ICE will notify the detainee’s representative of record that the detainee is being transferred from one location to another.<sup>150</sup> For security reasons, the attorney will not be notified until the detainee is en route to the new detention location.<sup>151</sup> The notification will include the reason for the transfer, along with the name, address, and telephone number of the receiving facility.<sup>152</sup>

For security purposes, specific plans and time schedules will never be discussed with the detainees involved.<sup>153</sup> The detainee will not be notified about his or her transfer until immediately prior to leaving the facility.<sup>154</sup> At that time, the detainee will be told that he or she is being moved to a new facility within the United States, and not being deported.<sup>155</sup> After notification, detainees are normally not allowed to make or receive any telephone calls or have

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<sup>145</sup> PCJ Inmate Grievance Form (*see* attached, provided by Corporal Gerena).

<sup>146</sup> *See* [b6, b7C] Summary.

<sup>147</sup> Detention Operations Manual, ICE Detention Standards, Security and Control Standard 4, Section I.

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> *Id.* at Section III.A.1.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.* at Section III.A.3.

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

contact with any detainee in the general population until the detainee reaches his or her final destination.<sup>156</sup>

At the time of the transfer, ICE will provide the detainee, in writing, with the name, address, and telephone number of the facility he or she is being transferred to.<sup>157</sup> The detainee will also be told that it is his or her responsibility to notify family members.<sup>158</sup> Before transfer to another field office, several records must be completed including the Alien File, charging documents, certified copies of convictions (if applicable), fingerprint cards, photographs, medical records, and other transfer paperwork.<sup>159</sup> Finally, no transfer may take place without a Form G-391 that authorizes the move.

When transferred, a detainee should be able to bring, “cash and small valuables such as jewelry, address books, phone lists, correspondence, dentures, prescription glasses, small religious items, pictures, etc.” with them.<sup>160</sup> A detainee’s legal material relating to Immigration must always accompany them to the receiving facility.<sup>161</sup> Ordinarily, the detainee should have these items in his or her possession, unless they are bulky or a security risk.<sup>162</sup> Before transfer, the sending facility shall return all funds and small valuables to the detainee.<sup>163</sup> Upon arrival at the new facility, indigent detainees will be authorized to make a single domestic phone call at the Government’s expense.<sup>164</sup>

**The facility has not fully implemented this Standard.** PCJ officials, including Lieutenant [b6, b7C] stated that ICE makes the decisions about detainee transfers, and that it is “up to the detainee” to notify his or her attorneys and family members. Captain [b6, b7C] and Lieutenant [b6, b7C] stated that 4-7 days of medical supplies as well as the detainee’s paperwork (including medical records) are transferred, too. Detective [b6, b7C] commented that very few detainees are transferred from PCJ, as most are deported. Lieutenant [b6, b7C] stated that anything the detainee has goes with him or her, unless ICE uses Marshals, who allow only certain items.

## **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.<sup>165</sup> According to the Detention Standards, these “opportunities will exist for all equally,

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<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.* at Section III.D.

<sup>160</sup> *Id.* at Section III.E.1.

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *Id.* at Section III.G.

<sup>165</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 14, Section I.

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.”<sup>166</sup> Moreover, a facility’s staff shall make “all reasonable efforts to accommodate” special food services required by a detainee’s particular religion.<sup>167</sup> Detainees in confinement must also be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility.<sup>168</sup>

**The facility has only partially implemented this Standard.** PCJ staff noted that was special attention was paid to accommodating access to religious services, because current Under-Sheriff [b6, b7C] was formerly the Chaplain of PCJ.

According to Captain [b6, b7C] detainees are permitted to keep religious texts in their possession, including Bibles, Torahs and Korans. However, articles of religious clothing are only permitted to be worn during the performance of religious services.

There is one room available for religious services. This space – the Chapel – is used for all religious services, as well as group presentations and PCJ staff meetings. The Chapel contains eighteen pews and an altar with a piano. The room was clean and very well air-conditioned. Half of one wall was glass block and allowed some natural light into the room. Private meetings or individual prayer may also occur in the Chaplain’s office. The staff indicated that if outside religious officials were available to assist them, detainees were permitted to use the Chaplain’s office for regular personal religious rites.

PCJ staff said that all religious dietary restrictions are honored and are recorded as part of a detainee’s medical intake evaluation. Captain [b6, b7C] said that conflicts between the food served and religious food restrictions are often handled “on-the-spot” by the duty supervisors to ensure the fastest resolution of the problem.

According to PCJ personnel, services are provided from Thursday through Sunday, in English and Spanish, as well as Hebrew. The offerings are based on requests and need. For example, the religious services schedule provided for July 2005 is as follows:<sup>169</sup>

7<sup>th</sup> month (July):

2<sup>nd</sup> week: July 8, 9, 10

1<sup>st</sup> session

4 main            4 marshall

4 marshall Annex

2<sup>nd</sup> session

3 main (Exclude 3-2)

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<sup>166</sup> *Id.*

<sup>167</sup> *Id.* at Section III.M.

<sup>168</sup> *Id.* at Section III.O.

<sup>169</sup> July 7, 2005 Memo from Warden [b6, b7C] re: Religious Services Schedule (provided to the delegation by PCJ).

3<sup>rd</sup> week: July 15, 16, 17  
1<sup>st</sup> session  
3 Grand + 4G1+4G4  
2<sup>nd</sup> session  
Semi 1,2,3,4, 4G2+4G3, 3 capias 1+2

4<sup>th</sup> week: July 22, 23 24  
1<sup>st</sup> session  
Trustees (All) 2G1, 1-2  
2<sup>nd</sup> session  
Max 1+3, 3 men cells

5<sup>th</sup> week July 29, 30 31  
1<sup>st</sup> session  
Max 2+ 3-2  
2<sup>nd</sup> session  
2 Grand (Exclude 2G1)  
2 men cells, max4, 2T4

The PCJ staff indicated that they rely on outside resources for a great deal of their religious programming and provisions, and that religious personnel of various backgrounds (*e.g.*, ministers, imams, rabbis) were available “around the clock.” They stated that specific requests could be made through the Jail Chaplain, who was accessible all of the time, by filling out forms. They also noted that requests for special items related to religion (such as food or figures) were given to the religious personnel, and it was that personnel’s responsibility to arrange to meet the requests.

One detainee expressed concern that fellow detainees were not consistently called to go to their religious services and, therefore, missed out on attending. He further claimed that the services given were so sporadic that he saw fit to start his own worship inside his dormitory cell.<sup>170</sup>

#### **K. Clothing and Personal Hygiene**

The Detention Standards require regular exchange of clothing, bedding, linens and towels.<sup>171</sup> At a minimum, underwear should be exchanged daily, outer garments should be exchanged at least twice weekly and bedding, linens and towels should be exchanged at least weekly.<sup>172</sup>

**The facility has apparently not fully implemented this Standard.** Detainees and staff alike indicated that the same outer garments are worn year round, but Captain [b6, b7C] stated that during the colder months detainees are given jackets during their outdoor recreation time. One detainee indicated that he had only been given one towel and one set of outer garments, so

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<sup>170</sup> See [b6, b7C] Summary.

<sup>171</sup> Detention Operations Manual, ICE Detention Standards, Detainee Services Standard 10, Section III.A.

<sup>172</sup> *Id.* at Section III.E.

laundering was a problem.<sup>173</sup> Officers at the facility indicated that long underwear is available for purchase at the commissary.

A detainee complained that the hygiene in the medical facility and living areas was bad. He said that they are given ½ bottle of bleach to clean the bathroom area once a day, and if they do not do it, they do not receive toilet paper. He also said that the razors received three times per week were horrible in quality and that there was no mirror to use for shaving.<sup>174</sup>

#### **M. Staff-Detainee Communication**

The Standards require that 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.”<sup>175</sup> The Standards require ICE personnel to conduct weekly scheduled and unannounced, unscheduled visits, which are to be conducted by the ICE OIC, the Assistant OIC, and designated department heads.<sup>176</sup> During the visits, the facility personnel should monitor housing conditions, interview detainees, review records, and answer questions for detainees who do not comprehend the immigration detainee process.<sup>177</sup> The Standards also require that detainees have the opportunity to submit written questions, requests, or concerns to ICE staff, which “shall be delivered to ICE staff by authorized personnel (not detainees) without reading, altering, or delay.”<sup>178</sup> All facilities that house ICE detainees must have written procedures to handle detainee requests.<sup>179</sup>

**The PCJ has not implemented this Standard.** Lieutenant [b6, b7C] stated that ICE staff are present almost daily to speak with detainees. Corporal [b6, b7C] said that facility staff do not take or give written messages on behalf of detainees, which contravenes the Detention Standards’ requirement that detainees “have the opportunity to submit written questions, requests, or concerns to ICE staff.” While complaints can be submitted in writing to an Ombudsman, one detainee said they oftentimes receive no response.<sup>180</sup> It was also observed by the delegation that many detainees approached Lt. [b6, b7C] to ask questions and request forms.

#### **N. Other**

Detainees complained about miscellaneous things at the Jail. One detainee complained that, having requested deportation to Jamaica, he was still in the Jail.<sup>181</sup> At least one detainee

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<sup>173</sup> See [b6, b7C] Summary. Mr. [b6, b7C] also complained that the shoes provided wear out after 1-2 days, and PCJ takes a “long time” to replace them.

<sup>174</sup> *Id.*

<sup>175</sup> Detention Operations Manual, Detainee Services Standard 15, Section I.

<sup>176</sup> *Id.* at Section III.A.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.* at Section III.B.

<sup>179</sup> *Id.*

<sup>180</sup> See [b6, b7C] Summary.

<sup>181</sup> See [b6, b7C] Summary.

complained of “random shakedowns.”<sup>182</sup> One detainee said that food, along with medical care (*see* Section C above), were the biggest issues at the facility. He said his dog would not eat the food, which was unhealthy and small in quantity. He also complained that the commissary sold food that was much too expensive. For example, he said a slice of white bread was \$0.30 and that Ramen noodles were \$0.61 each.<sup>183</sup>

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182 *See* [REDACTED] Summary.

183 *See* [REDACTED] Summary.

Facility Name: **Passaic County Jail, Paterson, New Jersey**

Date of Tour: **August 1, 2005**

Tour Participants: Latham & Watkins LLP attorneys and summer associates

b6

b6

b6

b6

b6

and

b6

\*Standards are Detainee Services Standards unless otherwise indicated. Issues are listed in the order in which they appear in the Report.

1.	ICE Standard*	Delegation Observation	Source	ICE Response
2.	Standard 17, Visitation <ul style="list-style-type: none"> <li>III.H. The facility's written rules shall specify time limits for visits: 30 minutes minimum, under normal conditions.</li> </ul>	<ul style="list-style-type: none"> <li>Inmate Handbook states detainees are entitled to two visits of 15 minutes each per week (p.6 ¶2).</li> <li>Staff said visits with family and friends last a minimum of twenty minutes (p.6 ¶2).</li> <li>One detainee reported that visits can be as short as 5 to 10 minutes; another that visits are never more than 20 minutes (p.6 ¶2).</li> </ul>	Inmate Handbook.  Information from facility staff, including Detective [redacted] Detainees [redacted] and [redacted]	
3.	Standard 16, Telephone Access <ul style="list-style-type: none"> <li>III.E. The facility shall not require indigent detainees to pay for [legal, court-related, consular, emergency calls] if they are local calls, nor for non-local calls if there is a compelling need. The facility shall enable all detainees to make calls to the INS-provided list of free legal service providers and consulates at no charge to the detainee or the receiving party.</li> </ul>	<ul style="list-style-type: none"> <li>The phones in the cell do not accept pre-programmed numbers for <i>pro bono</i> attorneys (p.8 ¶4). Apparently detainee also was unable to contact consulate (p.8 ¶2).</li> <li>Detainees must rely on collect calls or calling cards (p.7 ¶4).</li> </ul>	Delegation observations.  Detective [redacted] and detainee [redacted]	
4.	Standard 16, Telephone Access <ul style="list-style-type: none"> <li>III.I. The facility shall take and deliver telephone messages to detainees as promptly as possible. When facility staff receives an emergency telephone call for a detainee, the caller's name and telephone number will be obtained and given to the detainee as soon as possible.</li> </ul>	<ul style="list-style-type: none"> <li>Ombudsman staff said they deliver emergency messages but not other messages, because they are not "an answering service." (p.9 ¶2)</li> </ul>	Ombudsman's office staff, including Corporal [redacted]	
5.	Standard 16, Telephone Access <ul style="list-style-type: none"> <li>III.J. The facility shall ensure privacy for detainees' telephone calls regarding legal matters. For this purpose, the facility shall provide a reasonable number of telephones on which detainees can make such calls without being overheard by officers, other staff or other detainees.</li> </ul>	<ul style="list-style-type: none"> <li>Telephone calls may only be made from public places: public phones in the cell or the Ombudsman's Office, where officers are consistently present. (p.7 ¶3)</li> </ul>	Delegation observations.	

6.	<p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> <li>III.C. The law library shall contain the materials listed in Attachment A.</li> </ul>	<ul style="list-style-type: none"> <li>Delegation was not permitted to enter the law library (p.10 ¶2). According to list of materials later faxed to delegation by Captain [REDACTED] the print materials lack certain materials on the list (p.10 ¶4).</li> </ul>	<p>Delegation observations; list faxed by Captain [REDACTED]</p>	
7.	<p>Standard 6, Detainee Handbook</p> <ul style="list-style-type: none"> <li>I. Every OIC will develop a site-specific detainee handbook to serve as an overview of ... the detention policies, rules, and procedures in effect at the facility.</li> <li>III. E. The handbook will be written in English and translated into Spanish and, if appropriate, into the next most-prevalent language(s) among the facility's detainees. The OIC will provide translation assistance to detainees ....</li> </ul>	<ul style="list-style-type: none"> <li>Passaic has an inmate handbook, but it includes no information specific to immigration detainees. The office was out of the Spanish-language version of the inmate handbook at time of visit (p.14 ¶2).</li> </ul>	<p>Inmate Handbook. Corporal [REDACTED]</p>	
8.	<p>Standard 13, Recreation</p> <ul style="list-style-type: none"> <li>III.B.1. If outdoor recreation is available at the facility, each detainee shall have access for at least one hour daily, at a reasonable time of day, five days a week, weather permitting.</li> <li>III.B.2. If only indoor recreation is available, detainees shall have access for at least one hour each day ....</li> </ul>	<ul style="list-style-type: none"> <li>Recreation is not available with required frequency; sometimes 45 minutes twice per week; sometimes weeks go by with no recreation (p.16 ¶1). Captain [REDACTED] acknowledged inclement weather results in canceling outdoor recreation which is not rescheduled for the weight room due to lack of space (p.16 ¶2).</li> </ul>	<p>Detainees Evans; Castillo. Captain [REDACTED]</p>	
9.	<p>Health Services Standard 2, Medical Care</p> <ul style="list-style-type: none"> <li>III.A. Every facility will provide its detainee population with initial medical screening, cost-effective primary medical care, and emergency care.</li> </ul>	<ul style="list-style-type: none"> <li>Passaic officials stated that this facility offers regular mental health screenings for detainees upon entry to the facility (p.18 ¶3). However, detainee did not receive initial mental health screening, despite fact that he arrived taking medication for depression (p.18 ¶3).</li> </ul>	<p>Delegation observations. Detainee [REDACTED]</p>	
10.	<p>Standard 4, Detainee Classification System</p> <ul style="list-style-type: none"> <li>III.I. The detainee handbook's section on classification will include ...: 1. An explanation of the classification levels with the conditions and restrictions applicable to each. 2. The procedures by which a detainee may appeal his/her classification.</li> </ul>	<ul style="list-style-type: none"> <li>Inmate handbook does not explain the classification levels, nor explain appeal procedures. It states detainees will be separated based on factors such as aggressive tendencies only when "possible" (p.20 ¶2).</li> </ul>	<p>Inmate Handbook.</p>	

11.	<p>Standard 5, Detainee Grievance Procedures</p> <ul style="list-style-type: none"> <li>I. [S]tandard operating procedures (SOP) must establish a reasonable time limit for: ... (iii) providing written responses to detainees who filed formal grievances, including the basis for the decision.</li> </ul>	<ul style="list-style-type: none"> <li>Detainee indicated filed grievances were ignored (p.23 ¶3; p.24 ¶2).</li> </ul>	Detainee [REDACTED]	
12.	<p>Standard 5, Detainee Grievance Procedures</p> <ul style="list-style-type: none"> <li>III.G. Detainee Handbook. The grievance section of the detainee handbook will provide notice of the following: ... 2. The procedures for filing a grievance and appeal, including the availability of assistance in preparing a grievance.</li> </ul>	<ul style="list-style-type: none"> <li>Information regarding appeal was limited. The form indicates that an appeal period is available; however, the form simply has box to check “I disagree with the resolution and request further administrative action.” (p.24 ¶1)</li> </ul>	Inmate grievance form.	
13.	<p>Security and Control Standard 4, Detainee Transfers</p> <ul style="list-style-type: none"> <li>III.A.1. ICE shall notify the detainee’s representative of record that the detainee is being transferred ....</li> </ul>	<ul style="list-style-type: none"> <li>Officials stated that it is “up to the detainee” to notify his or her attorney. (p.25 ¶4).</li> </ul>	Staff including Lieutenant [REDACTED]	
14.	<p>Standard 15, Staff-Detainee Communication.</p> <ul style="list-style-type: none"> <li>III.B. All detainees shall have the opportunity to submit written questions, requests, or concerns to ICE staff .... The detainee request form shall be delivered to ICE staff by authorized personnel (not detainees) without reading, altering, or delay.</li> </ul>	<ul style="list-style-type: none"> <li>Corporal [REDACTED] indicated that officers do not take or give written messages on behalf of detainees. (p.28 ¶4).</li> </ul>	Corporal [REDACTED]	