

## MEMORANDUM

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

**From: American Bar Association and Massachusetts Bar Association Delegation to the ACI-Cranston Intake Service Center.**

**Re: INS Compliance with Detention Standards at the ACI-Cranston Intake Service Center.**

**Date: September 2002**

This memorandum summarizes and evaluates information gathered at the ACI-Cranston Intake Service Center facility ("ACI") through interviews with detainees, materials supplied by detainees directly or through their advocates, observation by delegation members, and discussions with the Immigration and Naturalization Service and ACI personnel during a May 10, 2002 visit.<sup>1</sup>

### INS Detention Standards

The Immigration and Naturalization Service (INS) promulgated the *INS Detention Standards* (September 30, 2000, revised February 11, 2002) (the *Standards*) in November 2000 to ensure the "safe, secure and humane treatment of individuals detained by the INS." The thirty-six *Standards* cover a broad spectrum of issues ranging from visitation policies to grievance procedures and food service. The *Standards* apply to INS Service Processing Centers (S.P.C.), Contract Detention Facilities (C.D.F.), and state and local government facilities used by the INS through Intergovernmental Service Agreements (I.G.S.A.). The *Standards* went into effect at the INS S.P.C. on January 1, 2001, and in state and local facilities in 2002. The *Standards* constitute a "floor" not a "ceiling" for treatment of the INS detainees. In other words, they are meant to establish the minimal requirements that INS must adhere to in its facilities. Each District Office or Officer in Charge, (OIC) may, in his or her discretion, promulgate policies and practices affording INS detainees more enhanced rights and protections than those provided for by the *Standards*.<sup>2</sup>

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<sup>1</sup> The delegation consisted of [b6], Center for Public Representation (on behalf of the Massachusetts Bar Association.); [b6] Rogers Powers & Schwartz (on behalf of the Massachusetts Bar Association); [b6] American Bar Association; [b6] Physicians for Human Rights; & [b6], a partner at Ross, Martel & Silverman.

<sup>2</sup> See <http://www.ins.usdoj.gov/graphics/lawsregs/guidance.htm>

ACI is a Rhode Island state correctional and detention facility that housed 1,068 detainees on May 10, 2002, which included 126 INS detainees. The length of stay for INS detainees varies from a number of months to one year, although one detainee interviewed by the delegation had been detained at ACI for fourteen months.

This memorandum discusses INS compliance with the *Standards* at ACI. The memorandum focuses on select portions of the *Standards* where INS compliance is of particular importance for the achievement of their stated goal to insure the "safe, secure, and humane treatment" of INS detainees. In particular, this memo focuses on ACI compliance with the *Standards* on: (1) Legal Access; (2) Telephone Access; (3) Legal Materials; (4) Group Rights Presentations; (5) Recreation Issues; (6) Classes; (7) Medical Issues; (8) Religious Issues, and (9) Use of Force Issues.

The delegation met with the following ACI personnel:

1. Deputy Warden [REDACTED] b6, b7C
2. Deputy Warden [REDACTED] b6, b7C
3. Correctional Officer [REDACTED] b6, b7C

The delegation also spoke with INS Deportation Officer [REDACTED] b6, b7C and [REDACTED] b6, b7C of the INS via conference call. In the medical area, the delegation spoke with dentist Dr. [REDACTED] b6 Nurses [REDACTED] b6 and [REDACTED] b6; and one of the social workers. The delegation also had brief conversations with a few other staff members.

## **I. Summary**

Persons serving state prison sentences are detained in different parts of ACI, which the delegation did not tour. The INS detainees are detained in the Intake Service Center, with state pre-trial detainees who are detained there during criminal proceedings. With the exception of two wings for sentenced prisoners, ACI serves as a statewide pre-trial detention facility. ACI's capacity is 1,100, and as of May 10, 2002 there were 126 male INS detainees held there (and three women in different buildings). The facility does not use a detainee handbook, but it does have its own "rule book" that all detainees receive upon arrival. Nothing in the rulebook relates to INS or INS detainees, in apparent contravention of the *Standards*. See *Standards*, Detainee Handbook & I (The Handbook will also describe the services, programs and

opportunities available through various sources, including the facility, INS, various organizations, etc.) (emphasis added). The language most encountered in the facility was Spanish and the "rule book" is provided to the detainees in both English and Spanish.

The facility is very clean and not malodorous. Physically, the building maintenance appears to be good in the areas the delegation toured. Also, ACI is in sound compliance with the standard on Group Rights Presentations and the standard on Voluntary Work Programs. Problem areas with which the delegation was concerned, which are discussed in greater detail later in specific subsections of this report, included the following:

ACI Personnel Unfamiliar with the Standards: It was our impression that facility personnel were not particularly well versed in the *Standards*. For example, Correctional Officer [REDACTED] (hereafter CO) and the deputy wardens with whom we spoke were knowledgeable about some of the more general standards concerning access to telephone use, such as the requisite number of telephones per pod, and they said that changes are in the works to improve the current burdensome system involving pin numbers and collect calls. The CO and deputy wardens, however, were unaware that they must give INS detainees access to information on free legal service providers (*see Standards, Access to Legal Materials & III(D)*), as well as allow INS detainees to receive telephone messages on a regular basis (*see Standards, Telephone Access & III(I)*). Similarly, while generally familiar with the requirements for recreation time and access to library resources, the CO was unaware that INS detainees should never have to forego one for the other. *See Standards, Access to Legal Materials & III(G)*. In some instances, the CO seemed unaware of any governing standards. For example, he incorrectly asserted without qualification that detainees have no option for non-contact visits, and are strip searched after every visit. *See Standards, Visitation & III(H)(4)*. He was also forthright but erroneous in stating that those placed in segregation lose all privileges, including visitation and telephone use, thus precluding their ability to contact even their attorneys. *See Standards, Visitation & III(I)(5)* (A detainee shall normally retain visiting privileges while in administrative or disciplinary segregation status.); and *Standards, Telephone Access & III(G)* (to the same effect).

ACI Disavowal of Some of the Standards: ACI staff also demonstrated on several occasions no intent to comply with certain *Standards*. These included recreation every third day instead of daily, as required by the *Standards*. *See Standards, Recreation & III(B)*. ACI staff also knew areas in which the telephone system was not in compliance with the *Standards*, such as not having a way for

new arrivals to call their attorneys or legal service providers, and not passing telephone messages from attorneys or others to detainees. *See Standards, Telephone Access & III(I)*. Yet facility staff offered no plans for bringing telephone access into compliance.

Denial of Necessary Medical Care: Both ACI medical staff and the detainees indicated that necessary medical care is denied to INS detainees although such care is available to other inmates at ACI. Treatment for specific medical conditions has not been pre-approved by INS. The more common denials deal with routine care such as providing glasses and dentures. *See Standards, Medical Care & III(A)* (Every facility will provide its detainee population with initial medical screening, cost-effective primary medical care, and emergency care. The OIC will also arrange for specialized health care, mental health care, and hospitalization within the local community).

Inadequate Library Resources: ACI staff indicated that while they have two libraries in the facility, INS detainees only have access to one of these libraries. This library is the only one with any of the designated Legal Reference Materials for detainees. The library materials are inadequate. Many essential materials are missing and others have not been updated within the last one to four years. For example, the copy of the Immigration and Nationality Act has been updated through August 2000 and the regulations only through January 1, 2000. The Board of Immigration Appeals cases have been updated through 2000 and Federal Reporter cases through 1998. The failure to properly update library materials violates the *Standards*. *See Standards, Access to Legal Materials & III(E)*.

Use of Force: An issue of concern arises with regard to the appropriate use of force. There were several complaints about excessive use of force by ACI correctional officers. Delegation members were made aware of these matters, which appear to be under investigation. *See Exhibits*. These complaints, as described in the Exhibits, appeared to be serious and worthy of careful consideration. *See generally Standards, Use of Force*.

## **II. Legal Access Visitation**

The visitation schedule is posted at the front desk and the visitation rooms look clean and relatively spacious.

### **A. Visitation by Attorneys**

The schedule for attorney visitation is seven days per week. ACI requires a photo ID if the attorney does not have a Bar Membership card with him or her. This is in violation of the *Standards*. See *Standards, Visitation & III(I)(4)* (If such documentation is not readily available to attorneys licensed in a particular state, they will be required to indicate where they are licensed as an attorney and how that fact may be verified. There are conflicting reports about whether attorneys can call ahead to determine if a detainee is at a facility. See *Standards, Visitation & III(I)(6)* (Each facility shall establish a written procedure to allow legal service providers and legal assistants to telephone the facility in advance of a visit to determine whether a particular individual is detained in that facility). However, under the attorney visitation rules, anyone affiliated with counsel can visit. Facility staff advise that giving notice is usually a good idea before a visit, especially in situations that call for an interpreter. The best way to give notice is by fax, so that the request can be documented.

There are four "contact" interview rooms with plexiglas, which also include 2-3 chairs and a table. In violation of the *Standards*, there is no option for a non-contact visit, providing detainees with an opportunity to avoid a strip search. See *Standards, Visitation & III(I)(11)*. The rooms are soundproof and no cameras or listening devices are present. Three guards are stationed at the door. All detainees are strip searched after every visit.

Attorneys can continue client visits through meal breaks and counts, with meals served during such visits. If a visit continues through a meal, the detainee has the option of getting snack meals; some reported that they do not get the same meal, but rather scraps from the kitchen depending on the officer on duty.

*Interview with* [REDACTED] b6, b7C

Detainees who are in segregation are improperly deprived of all visitation privileges. See *Standards, Visitation & III(I)(5)* and (12). According to CO [REDACTED] b6, b7C they are allowed to see their attorney, but this is made difficult by the fact that they have no access to telephones, again in violation of the *Standards*. See *Standards, Telephone Access & III(F)* and (G).

### **B. Visitation by Friends, Family and the Media**

Visitation from family and friends is allowed seven days a week with either two adults or one adult and

two children at a time. Detainees are allowed only one visitation session a day and visits can last up to one hour and fifteen minutes. Minors, immediate family members and relatives, friends and associates are allowed to visit, but for immediate family members detained in the same facility, visitation is limited. Special visits can be made if the family member lives 50 miles or more away from the facility. *CO*

*b6, b7C* Interview with *b6, b7C* Most of the INS detainees interviewed had family and friends outside of Rhode Island. According to *CO* *b6, b7C* visitors are allowed to deposit money in the account of detainees only by sending the money in the form of a check or money order via the postal service. Visitors may not deposit money directly into a detainees account in prison, a policy which is inconsistent with the *Standards*. See *Standards, Visitation & III(D)* (The OIC shall allow a visitor to leave money with a designated staff member for deposit in a detainees account).

### **III. Telephone Access**

According to the *Standards* each 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. In SPCs/CDFs, INS has required its telephone service provider to program the telephone system to permit detainees free calls to numbers on the official pro bono legal representation list, immigration judges and consulates, and to permit detainees to make direct calls by use of debit cards. INS encourages and will work with IGSA facilities toward adopting similar procedures, and share INS knowledge and experience in this area. *Standards, Telephone Access & III(E)*.

The telephone system has not been installed according to specifications in the *Standards*. There is only a list of bail bondsmen in the booking area, however there are no lists of legal service providers. When the detainee first arrives, there are two numbers to make bail calls that are collect calls. See *Standards, Telephone Access & III(E)* (free calls for indigent detainees). Contrary to the *Standards*, there are no postings on how to use the telephone system, only basic rules on telephone use which are printed in both Spanish and English. See *Standards, Telephone Access & III(B)*. All calls are electronically monitored, except for calls to attorneys. The telephone system is complicated and requires a system accessed by a pin number. This system can take up to a week to activate, even though the *Standards* require access within twenty-four hours. See *Standards, Telephone Access & III(E)*. All numbers must be supplied in advance, including numbers for lawyers, family and friends. There is a limit of ten numbers included on each detainees list, and it can take up to a week to change a number on the list.

There is one telephone for every 12 cells, and two telephones for every 24 cells. If there are more than 24 cells, then there is a telephone bank consisting of 5-6 telephones. There is nothing to ensure privacy in the telephone bank, as detainees must sit side by side on a bench when making their calls.

ACI does not take or deliver telephone messages in many instances. There is no set procedure for delivering emergency telephone calls, but the chaplain usually delivers news of deaths, if he is aware of such events. *See Standards, Telephone Access & III(I)* The telephone service provider is AT&T and the cost of a collect call is over a dollar a minute, even for indigent detainees. *See Standards, Telephone Access & III(E)*. CO [b6, b7C] indicated that AT&T will not allow pre-programmed calls.

According to CO [b6, b7C], detainees are allowed to make only collect calls to legal service providers and legal representatives, a policy that is in violation of the *Standards*. The *Standards* require the facility to provide free calls:

to the local immigration court and the Board of Immigration Appeals; to Federal and State courts where the detainee is or may become involved in a legal proceeding; to consular officials; to legal service providers, in pursuit of legal representation or to engage in consultation concerning his/her expedited removal case; to a government office, to obtain documents relevant to his/her immigration case; and in a personal or family emergency, or when the detainee can otherwise demonstrate a compelling need (to be interpreted liberally).

*Standards, Telephone Access & III(E)*

Detainees can only make telephone calls after they have a PIN number, and can only call to pre-approved numbers. Some detainees say they had to wait for a month or longer to obtain/change a PIN number.

*Interview with* [b6, b7C] They also say that they cannot make free calls to their consulate or the court.

*Interview with* [b6, b7C] They say that there is no information about how to make calls, in violation of the *Standards*. *See Standards, Telephone Access & III(B)*.

#### **IV. Legal Material**

The *Standards* require: The law library shall contain the materials listed in Attachment A. *Standards, Access to Legal Material & III(C)*. Each detainee shall be permitted to use the law library for a minimum

of five (5) hours per week. Detainees may not be forced to forego their minimum recreation time, as provided in Detainee Recreation standard, to use the law library. *Standards, Access to Legal Material & III(G)*.

Legal materials are in poor condition. The majority of essential legal references are so outdated as to be of extremely limited use in light of prolific immigration law changes and ever-changing legal precedent. *Standards, Access to Legal Material & III(E)*. ACIs violations of the *Standards* with respect to library holdings are described in greater detail, below.

#### **A. Materials Identified in Attachment A-2 of the *Standards***

The following materials were found to be up to date:

1. *Guide for Immigration Advocates*
2. *Rights of Prisoners*
3. *Spanish-English Law Dictionary*

The following materials need to be updated:

1. *Constitution of the United States of America; Analysis and Interpretation*- April 2001
2. *United States Code, Title 8, Aliens and Nationality*- Updated to 2000
3. *Code of Federal Regulations, title 8, Aliens and Nationality*- January 1, 2001
4. *Benders Immigration and Nationality Act Service*- August 2000
5. *Benders INS Regulation Service*- 3 sets, September 1999
6. *Administrative Decisions Under Immigration & Nationality Laws*- Vol. 1-20, 2001
7. *Immigration Law and Defense, by the National Lawyers Guild*- 2 sets up to 1998
8. *Immigration Law and Crimes, by the National Immigration Project of the National Lawyers Guild*- June 2000
9. *Country Reports on Human Rights Practices*.-1999
10. *Federal Habeas Corpus, Practices & Procedures*- 2000
11. *Federal Civil Judicial Procedure and Rules*.- 2001
12. *United States Code, Title 28, Rules, Appellate Procedure Pamphlets I & II*.- 1999 revision
13. *Federal Criminal Code and Rules*- March 9, 2001
14. *Criminal Procedure (hornbook) By LaFave*- 2000

The following books were not found during our tour:

1. *Human Rights Watch- World Report*
2. *UNHCR handbook on Procedures and Criteria for Determining Refugee Status*
3. *Consideration for Asylum Officers Adjudicating Asylum Claims from Women Immigration and Naturalization Service Basic Law Manual*
4. *Immigration and Naturalization Service Basic Law Manual*
5. *Lawyers Committee Handbook on Representing Asylum Applicants.*
6. *Legal Research and Writing: Some Starting Points.*
7. *Directory of Nonprofit Agencies that Assist Persons in Immigration Matters.*
8. *Other Translation Dictionaries Depending on the Most Common Language Spoken by the Detainee Population.*
9. *Detainee Handbook and Detainee Orientation Materials.*
10. *Self Help Materials.*

## **B. Library Conditions**

There is no librarian on site to assist detainees. There are no legal materials on computer disks or CD-ROMS on site. Detainees are not permitted to make their own copies of legal documents. *See Standards, Access to Legal Material & III(J)* (The facility shall ensure that detainees can obtain photocopies of legal material, when such copies are reasonable and necessary for a legal proceeding involving the detainee). Detainees give their materials to another detainee (who may be an inmate or an INS detainee) who is assigned to the library and who makes the copies. There are no provisions for confidentiality.

## **C. Photocopies and Mail**

The *Standards* state that staff shall neither read nor copy special correspondence. The inspection shall be limited to the purposes of detecting physical contraband and confirming that any enclosures qualify as special correspondence. *Standards, Correspondence and Other Mail & III(E)*. Special correspondence is the term for detainees written communications to or from private attorneys or other legal representatives *Id.*

The detainees can submit requests to make photocopies twice a week. Those in segregation must submit

a written request for photocopies. Confidentiality is a serious problem. The facility assigns an inmate to make photocopies, with no issue of confidentiality discussed. Detainees must fill out a slip to have copies made. Days later, they get copies and originals back, though all originals are not consistently returned. An inmate copies the documents and takes a 10 hour training course, but receives no training on confidentiality. The two deputy wardens and CO [b6, b7C] said (or agreed with one another) that the reason the inmates are not allowed to copy documents themselves, according to ACI personnel, is to keep the copiers from breaking or being overused or misused, as well as to control the content of what is being copied; that the inmates lawyers should be making copies of legal documents if they, or their clients, are really concerned about confidentiality. There was no set procedure for requesting copies free of charge for indigent detainees, but they were allowed a limited number of free stamps and envelopes for legal matters. These practices violate the *Standards, Access to Legal Material & III(J)*.

Mail is read for contraband and gang activity. ACI personnel [CO [b6, b7C]] asserted that the detainees opened the mail in front of the mail officers upon delivery of legal mail, while the detainees insisted that they received their mail already opened [Interview with [b6, b7C]]. If the detainees are correct, then ACI is in violation of *Standards, Correspondence and Other Mail & III(E)*.

#### **D. Computer Access, Equipment and Holdings**

The library had two computers for detainee use. There were no CDs with legal materials available. The library also had one typewriter and one printer. The computer was equipped with CD-ROM to insert CDs relating to immigration law. It was unclear whether detainees were able to save any material on diskettes.

#### **E. Access to Library**

Every detainee has certain times in which he can go to the library. They are usually allowed 1.5 hours at a time. Detainees may request additional time if needed. The INS detainees could use the library three times a week for 1.5 hours but might have to use it during times reserved for other activities, in violation of the Standards. See *Standards, Access to Legal Material & III(G)* (Detainees may not be forced to forego their minimal recreation time, as provided in Detainee Recreation, standard to use the law library). The library was open three times a day for an hour plus. A person in segregation who makes a request can access the library, according to facility staff.

## V. Group Rights Presentation

The *Standards* require detention facilities to permit Group Rights Presentations (GRP) to groups of INS detainees, to inform them about immigration law and procedures (not to be a forum for providing confidential or case-specific legal advice). The presenters need to be pre-authorized, and the GRP must be consistent with the security and orderly operation of the facility, but the facility must cooperate fully with the authorized presenters to facilitate the GRPs. *See Standards, Group Presentations on Legal Rights & I.*

According to the facility staff, GRP requests usually are granted two weeks in advance of the presentation date and notices of the GRP are posted throughout the facility within a day of the approval of the presentation. A detainee sign-up sheet is used to ensure custodial arrangements for detainees who want to attend the GRP, which is held in either the law library or a classroom (otherwise used for prisoner education programs). The notices of the GRP and sign-up sheets were not seen posted in any housing units, rather a detainee mentioned that he only saw them in the law library, which detainees have limited access to and, therefore, does not notify all detainees of the GRP or provide all detainees the opportunity to sign up.

According to one detainee, he had attended a GRP, presented by Catholic Relief. *Interview with* [REDACTED] [REDACTED]. He complained of a lack of particularized assistance for his individual case that was not met by the GRP. He did not have an opportunity to meet with the presenter after the GRP. He had not seen the Florence Project video. According to a second detainee, he had attended GRPs presented by Boston College Law School. (*Interview with* [REDACTED] [REDACTED].) He complained that the sessions were overcrowded for the room size. He also had not been able to meet with the presenter afterwards, and was disappointed with the lack of individualized, case-specific advice.

ACI substantially meets the minimum requirements of the GRP detention standard. ACI reports that no GRP requests had been denied, that appropriate notice was given and appropriate access allowed for detainees. The rooms used for GRPs appear to have been too small for the attendance, but the delegation did not hear of a detainee being excluded from a GRP.

## **VI. Recreation Issues**

According to the *Standards*, 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. If only indoor recreation is available, detainees shall have access for at least one hour each day and shall have access to natural light. Under no circumstances will the facility require detainees to forego basic law library privileges for recreation privileges. *Standards, Recreation & III(B)*.

Outdoor recreation is allowed every third day if the weather is above 33 degrees. Detainees are mixed with pre-trial inmates during recreation. The coats given to the inmates are dingy and do not appear to be laundered regularly. There is no exercise equipment provided except for basketball nets, in violation of *Standards, Recreation & III(G)(1) and (2)*. The detainees are given the option of foregoing library privileges for recreation when schedules conflict, a practice that conflicts with the requirements of *Standards, Recreation & III(B)*. Indoor recreation is limited to a few soft-cover books and board/card games in the common area of the housing unit, conditions which do not comply with *Standards, Recreation & III(B)*. Those detainees in segregation lose all recreational privileges. They are allowed to walk around in a circle inside their unit for a few minutes after the first five days in which they are not allowed out of their cell at all. This policy is in apparent conflict with *Standards, Recreation & III(H)*

## **VII. Classes**

Other than the Group Rights Presentation, the delegation only learned of ACI providing ESL classes that are offered three times a week. The classes are usually offered in English.

## **VIII. Medical Issues**

The *Standards* require: All detainees shall have access to medical services that promote detainee health and general well being. Every facility will provide its detainee population with initial medical screening, cost-effective primary medical care, and emergency care. The OIC will also arrange for specialized health care, mental health care, and hospitalization within the local community. *Standards, Medical Care & I*.

## A. General Access to Health Care

According to several ACI medical staff who spoke with the delegation, the infirmary is staffed 24 hours a day. Five staff are on the first and second shift and two on the third shift. Dr. [REDACTED], the dentist, is on-site five days a week. They have a private eye doctor. They have one doctor three-quarters of the time for six days and one doctor for half time for only five days. There is also a nurse practitioner available five days.

This infirmary has four isolation cells, three "psych" cells and 20 beds in two 10-bed rooms. The psych cells, as an ACI guide in that part of the health clinic admitted [delegation members did not obtain his name], were pretty deprived looking cells. The main hospital bedrooms looked clean and adequate and an officer was stationed right outside. There is a separate room for the pharmacy. Staff pointed to a separate room containing medical records that they said are kept separate from other prison or detainee records. When a detainee is transferred, medical staff faxes a form with medication and vital signs to the next facility, but ACI does not send a copy of the records, thus contravening *Standards, Medical Care & N.*

For routine medical care the inmates and detainees must submit a written request at the next meal. The staff triage the requests by seeing the most important conditions first. One of the medical unit staff is "right outside the chow line", according to Nurse [REDACTED] and the detainee puts in the request. Typically, the facility staff maintains that requests are responded to within the week. But if it is a more serious health issue, say a respiratory problem, they are seen "right away." For example, seen right away would be someone with chest pains or a diabetic on insulin with a cut that won't heal. Someone with headaches may not be seen for a week.

In contrast, several INS detainees reported delays and difficulties being seen for common complaints such as headaches, the flu or a cold. While staff said a week was typically as long as a detainee waits for treatment of common complaints, detainees specifically said they waited one to three weeks. *Interview with [REDACTED]; Interview with [REDACTED].* Staff indicated they have to deal with some requests that do not warrant their attention. However, one detainee specifically said that if a detainee has a bad case of something like the flu, if he waits a week or more, in all likelihood, the illness will be over by the time he is seen. *Interview with [REDACTED]* By any measure, a wait of even one week is a violation of

the *Standards*. See *Standards, Medical Care & III(F)(2)* (Facilities with 50 to 200 detainees - [sick call shall be available] a minimum of 3 days per week).

The infirmary has its own laboratory and x-ray capabilities.

ACI medical staff must request INS advance approval for many kinds of medical treatment. The INS typically responds within a week to requests for approving care. ACI medical staff noted that they could make the decision on the spot for Rhode Island prisoners and schedule sending them out for necessary treatment. Differences in the medical care provided to INS detainees occur with respect to specialty care. For example, with eye care, "unless you are just about blind," the INS won't approve it, according to Nurse [REDACTED] b6. If a detainee has vision of 2100, he or she may have the opportunity to get glasses. If you can't read law books, then they [the INS] are not going to pay for glasses. [Nurse [REDACTED] b6]. Such conditions deprive detainees of the primary and specialty medical care required by the *Standards, Medical Care & III(A)* (Every facility will provide its detainee population with initial medical screening, cost-effective primary medical care, and emergency care. The OIC will also arrange for specialized health care, mental health care, and hospitalization within the local community).

Dental care is another place where care is distinguished. The facility staff has the capacity to perform the majority of dental procedures on site, including partial dentures and restorations. "If they (detainees) have any problem, they are seen," including swelling, according to Dr. [REDACTED] b6. If detainees are less able to function because of few teeth, the ACI dental staff will do partial dentures, if detainees have a cavity, staff can treat and do restoration. If detainees have an abscess or broken tooth, staff will pull it. However, the INS will not pay for dentures, and it appears they will not pay for much other than tooth pulling. This policy results in a distinction between the state and INS detainees.

The *Standards* for dental treatment are ambiguous about routine care and dentures. See *Standards, Medical Care & III(E)(2)*. Routine care is conditioned on a detainee being held at least 6 months before being eligible for such care. Although the Standard refers to care to maintain the health of detainees, it only says it may be provided. One detainee had no teeth and reported being turned down repeatedly for dentures. *Interview with* [REDACTED] b6, b7C. Given that ACI can provide dentures to non-INS detainees, the denial of INS approval is a denial of care that maintains a detainees health. Cost appears to be the sole reason this practice does not conform to standards of care since other ACI inmates do obtain dentures.

The delegation learned of other examples of INS not approving outside medical care. [Interview with [REDACTED] b6, b7C]; Interview with [REDACTED] b6, b7C]. One detainee [REDACTED] b6, b7C reported that INS had denied surgery to remove a 10x15 centimeter lump on the detainees back, despite his symptoms of chronic pain, sleep difficulty and reduced mobility.

With headaches from stress or infection, if these are serious enough, staff can order a CAT scan. If detainees have migraines, staff can prescribe Imatrix, but do not prescribe it often. They will start with something else because of its cost. The medical staff implied that INS is much less likely to approve the more costly medication like Imatrix.

Emergency care is the same for INS and state inmates. Emergencies are sent to RI Hospital. The ACI staff can order that, for instance, for heart attacks, seizures or a broken arm. But for something that would be termed urgent care, say stitches, most would be sent to a local private facility known as Stat Care.

## **B. Privacy and Consent**

There is a separate room for medical records. Records are kept separate from other prison or detainee records. When there is a language barrier in dealing with detainees medical and social/psychiatric services, the interpretation is usually done by available corrections officers who are not instructed to keep the context of conversations confidential. Detainees reported that they or their lawyers, as authorized, were able to obtain copies of their ACI medical records without difficulty. [Interview with [REDACTED] b6, b7C] [REDACTED] b6, b7C Interview with [REDACTED] b6, b7C]. Medical staff [Nurses [REDACTED] b6, b7C and [REDACTED] b6, b7C] described an apparently adequate consent process before treating detainees.

## **C. HIV and other Infectious Diseases**

Basic medication for HIV is included in the basic medical care. Upon admittance, facility staff does a standard health screening that includes vital signs, health history and tests for syphilis, TB, and HIV. If the TB test is positive, they do an x-ray and if and when the condition is confirmed, they put the detainee on a drug treatment regimen. They only isolate a detainee if the disease is communicable.

The HIV test takes about 4 weeks to get results. The test is confidential. Giving the specimen and inmate a number ensures confidentiality and a special team tests that specimen number. The team is there every

week to brief new detainees. ACIs practices seem to conform to *Standards, Medical Care & III(K)*.

## **IX. Religious Issues**

There are regular religious services on site, some weekly others daily for Catholics, Protestants, Jewish and Muslim denominations. Religious counseling is available upon request. The detainee is allowed to meet with any chaplain or clergy approved by the jail after the detainee's request. ACI provides special diets to meet with religious observances. The detainees are allowed to keep soft cover bibles and Korans in their possession. The conditions comply with *Standards, Religious Practices*.

## **X. Other Issues**

### **A. Mental health**

There is a Department of Corrections psychiatrist, who is a state employee rather than a contractor to the state DOC; he services all the facilities within the state DOC campus and is located on the campus (although outside of the ISC). The Intake Services Center, which has its own 40 hr/wk psychologist, and two clinical social workers (one position vacant, but a new LICSW is expected to be on staff shortly) to service 1,000 to 1,100 prisoners. There also is a peer (prisoner in need to prisoner volunteer) counseling program.

Fifteen percent, more than 1,000, of all prisoners have mental illness diagnoses, yet only 90 of them receive psychotropic medications. There appears to be no specialized on-going treatment of mental illness, other than emergency intervention for close observation status of suicide risks and prescribing of psychotropic medication. LICSWs may provide some rudimentary discharge planning, but persons with mental illness ordinarily do not receive treatment plans.

In the 20 years the facility has been open, there have been (according to Deputy Warden b6, b7C) no more than 10 suicides. There was one a suicide committed by an inmate approximately two months ago, but the staff reported that the last one before that was 2-3 years before. The medical unit has 7-10 close observation beds for suicide risk prisoners, and three isolation and restraint unit cells located immediately adjacent to the clinical staff and formulary. The isolation units have video and window monitoring. Correctional officers as well as clinicians can transfer suicide risks from general population to the medical

unit for close observation.

## **B. Detainee Classifications**

INS detainees are commingled with pre-trial inmates, but are not classified by security risk. ACI classifies its inmates as post-trial or pre-trial. INS detainees are all housed in one general population setting or in segregation, and are not subject to a separate classification system, as permitted by *Standards, Detainee Classification System & I*. Several detainees said that they were in lockdown for 18 to 19 hours each day.

## **C. Accommodations**

Cells are double occupancy and are approximately 7'x12'. Linens and clothing are changed weekly. Sleep hours are from 10 p.m.- 7 a.m.

## **D. Dietary Requirements**

The *Standards* require: Detainees with certain conditions (chronic or temporary; medical, dental, and/or psychological) will be prescribed special diets as appropriate. The physician may order snacks or supplemental feedings for such reasons as: (a) insulin-dependent diabetes. *Standards, Food Service & III(F)(1)* and (2).

The kitchen appeared sanitary. Hairnets along with aprons were worn, but we did not observe the consistent use of gloves. The food was prepared by the inmates. Kosher meals are available upon request and Ramadan may also be observed upon request. Every year the diet is reevaluated and adapted. Although the standards say a dietician should review the diet every 35 days, staff mentioned nothing like that. [N.B.: The menu cycle for detainees must be at least 35 days. *Standards, Food Service & III(D)(1)*. Religious diets and therapeutic diets are written for 30 days, and must be renewed. *Standards, Food Service & III(E)(1)* (religious diets) and (F)(1) (therapeutic diets). The menu cycle for religious diets is 14 days. *Standards, Food Service & III(E)(2)*.] In the medical unit, several specialized diets were posted: (1) someone requiring more than 2,500 calories a day, (2) no added salt, for say a case of hypertension, (3) no sweets, (4) low fat, (5) calorie controlled. Medical staff said they could authorize these diets and do. The kitchen staff checks that the detainees follow specialized diets. Allergies are generally not

accommodated. According to CO [b6, b7C], there is an overabundance of calories in any given meal. He said that the detainees are told to eat around what they are allergic to. The exception might be if you are allergic to tomatoes and tomato sauce covers the pasta, which is the main part of the meal.

Several detainees indicated that they do not receive an appropriate diet for their medical needs. One INS detainee is diabetic [b6, b7C] and said that he does not receive a proper diet appropriate for diabetics, but rather the regular diet. He says that he has even had snacks taken away from him. A second detainee [b6, b7C] complained about his inappropriate diet [poultry]. Another detainee complained about the problem of inappropriate diets in general [b6, b7C]. These complaints, if true, evidence violation of *Standards, Food Service & III(F)*.

#### **E. Detainee Work Program**

Detainees are allowed to participate in a work program, including janitorial jobs, kitchen and law library jobs. Detainees are paid anywhere from \$1 - \$3 per day. Here, ACIs practices exceed the *Standards* for SPCs/CDFs. See *Standards, Voluntary Work Program & III(K)*.

#### **F. Grievance and Disciplinary Procedures**

There are "Level 1" and "Level 2" procedures. The prisoners are to request forms from officer on duty, but the detainees state that requests are ignored, in violation of both the spirit and the letter of *Standards, Detainee Grievance Procedures*. The Level 2 procedure involves the Warden; such complaints rarely get that far. There is no INS presence on internal disciplinary/grievance boards. The staff reports that they have fewer complaints about INS detainees than about in the pre-trial population. There is no change in underwear, uniform, visitation or phone privileges for the first 5 days in segregation. Lockdown is supposedly 10 hours a day, but the detainees report that it sometime lasts up to 20 hours.

#### **G. Segregation**

Administrative and disciplinary segregation are the same. If an officer witnesses violence, (i.e. a punch, between a detainee and another officer or another detainee), he can send the person directly to segregation. If there is an altercation between a detainee and an officer with no other witnesses, the officer needs to get his supervisor to approve putting the detainee in segregation, but that approval is

received on the spot within minutes. However, often the supervisor approves a disciplinary waiver type of segregation that is two days.

Once in segregation, there is a grievance process with the detainee being booked in 24 hours and getting to appeal before the disciplinary board in a couple of days. Segregation means one hour out of cell on a weekday and not even this on weekends and holidays.

## **H. Use of Force**

The *Standards* state that the use of force is authorized only after all reasonable efforts to resolve a situation have failed. Officers shall use as little force as necessary to gain control of the detainee; *Standards, Use of Force & I.*

Several detainees reported being mistreated by ACI guards, particularly guards on the second shift. The delegation was provided with copies of correspondence to INS describing some of these incidents, as well as INS responses. *See Exhibits.* However, it was not clear from the correspondence if INS' investigation of the allegations will address ACIs compliance with INS' use of force standards, e.g., whether records are maintained by ACI of reasonable efforts utilized to resolve a situation without force and what led such efforts to fail, or of efforts made to minimize the amount of force used. The delegation did not directly interview the officials concerning these matters in order not to interfere with any investigations that may be pending. However, upon interviewing the detainees, the delegation members did confirm allegations referred to in the Exhibits regarding excessive force, racial slurs, and other forms of physical and verbal mistreatment. These allegations strongly suggest ACI violations of multiple provisions of the *Standards, Use of Force.*

## **XI. Conclusion**

As described more fully above, the ACI is compliant with the *Standards* in several areas, including Group Rights Presentations and Voluntary Work Program, but noncompliant in several key areas, including Legal Material and Medical Care. Of additional concern is the ACIs unfamiliarity with some of the *Standards* and disavowal of others, as well as the reported complaints regarding Use of Force-- although the latter appear to be under investigation by INS.

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