

LEGAL ACCESS AND CONDITIONS OF CONFINEMENT FOR INS DETAINEES IN VIRGINIA COUNTY JAILS

VIRGINIA BEACH CORRECTIONAL
FACILITY
2501 James Madison Blvd., Virginia Beach, VA 23456

I. ACCESS TO LEGAL MATERIALS

The facility was visited on July 26, 2001. As with one other facility visited, there were significant concerns with the lack of access to legal materials at the Virginia Beach facility. There was a law library that contained the new immigration materials issued by INS but detainees were barred access.¹ They must make a request for the materials contained therein. This raises questions of the detainees' ability to request the correct materials without having the opportunity to look through the library's holdings. Nevertheless, this facility was the only facility in which a list of the library's holdings of immigration materials was posted in the housing units.

II. ACCESS TO TELEPHONES

The telephones in the pods are available for use from 9 a.m. to 11 p.m.. There is one phone per pod, which contains approximately a dozen inmates.² However, because of the size of the pod and the relative proximity of the telephone to the other detainees, detainees are not

¹ According to the INS Detention Standard entitled "*Access to Legal Material*," "The facility shall devise a flexible schedule to permit all detainees, regardless of housing or classification, to use the law library on a regular basis. Each detainee shall be permitted to use the law library for a minimum of five (5) hours per week."

² Virginia Beach Correctional Facility also houses minimum-security detainees in a separate annex. The number of inmates per pod differs from the system used in the main facility.

ensured confidentiality when they make phone calls.³ Detainees also complained that their phone calls are being cut-off after every two or three minutes.

Unlike in all the other facilities visited, the telephones in the Virginia Beach facility have been installed with pre-programming technology. Nevertheless, the detainees have been unable to reach free legal service providers or INS using the pre-programmed technology due to system problems.⁴ A Captain confirmed to us that he himself has verified that the calls are not going through. He suspected that the calls are not being accepted because the pre-recorded identifier that prefaces each call is being mistaken as an identifier for a collect call.

Due to these problems, detainees are unable to reach the Immigration Court to inquire about the status of their cases, unable to call the organizations on the Executive Office of Immigration Review list of free legal service providers, and unable to reach their consulates or embassies. This raises serious concerns about the ability of the detainees held at the Virginia Beach facility to access pro bono counsel to adequately prepare their cases.

III. VISITATION

The non-legal visitation schedule is relatively restrictive considering Virginia Beach's remote location vis-à-vis the Washington, D.C. area. Family visits are limited to

³ According to the INS Detention Standard entitled "*Telephone Access*," "The facility shall ensure privacy for detainees' telephone calls regarding legal matters. For its 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."

⁴ According to the INS Detention Standard entitled "*Telephone Access*," "Even if telephone service is generally limited to collect calls, the facility shall permit the detainee to make direct calls: (1) to the local immigration court and the Board of Immigration Appeals; (2) to the federal and state courts where the detainee is or may become involved in a legal proceeding; (3) to consular officials; (4) to legal service providers in pursuit of legal representation or to engage in consultation concerning his/her expedited removal case..."

20 minutes and vary depending on the housing unit.⁵ It should also be noted that all visits, including legal visits, are non-contact.

IV. RECREATION ISSUES

Detainees at this facility complained that they have not been receiving their full recreation time, an hour per day, and often do not receive any time at all due to the lack of staff.⁶ It was also expressed that their recreation time is frequently cut short due to safety concerns that arise when different housing units are let out for recreation in adjoining yards.

V. MEDICAL ISSUES

A nurse is responsible for processing medical request forms within twenty-four hours. There have been several complaints about the processing of sick-call request forms, especially for those who are indigent. Many detainees reportedly submitted several requests to no avail. Also, because of the quality of the food many detainees complained of stomach problems that are not being addressed by the medical staff.

VI. RELIGIOUS ISSUES⁷

Of particular concern at this facility are religious dietary restrictions. This is the only facility visited that does not accommodate special dietary needs according to religious

⁵ According to the INS Detention Standard entitled "*Visitation*," "The facility's written rules shall specify time limits for visits: 30 minutes minimum under normal conditions. INS encourages more generous limits when possible especially for family members traveling significant distances to visit."

⁶ According to the INS Detention Standard entitled "*Recreation*," "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."

⁷ According to the INS Detention Standard entitled "*Religious Practices*," "Detainees of different religious beliefs will be provided reasonable and equitable opportunities to participate in the practices of their respective faiths. These opportunities will exist for all equally, regardless of the number of practitioners of a given religion, whether their religion is 'mainstream,' whether the religion is 'Western' or 'Eastern,' or other such factors."

requirements.⁸ A Hindu detainee, who has been a vegetarian all of his life, is unable to get a vegetarian tray and has consequently lost a significant amount of weight since being detained. During our visit we were able to observe a meal being served and noted that he would only be able to eat a piece of cake and some coleslaw from his tray.

VII. OTHER CONDITIONS ISSUES

In addition to the conditions mentioned above, another issue of concern for indigent detainees is hygiene. They do not receive a sufficient amount of soap for the month and are forced to depend upon others to obtain an adequate amount of supplies.

In addition, grievances with staff reportedly are not addressed. As one detainee stated, “Here they don’t listen to anyone. It doesn’t matter who you complain to or how many grievances you file, they never want to listen to us.”

Of all the facilities visited, Virginia Beach raised the most concerns. The facility lagged the furthest behind the INS Detention Standards and demonstrated shortcomings in policies and practices which apparently adversely affect detainee wellbeing. These factors contributed to low morale among detainees and an overall sentiment of sadness and desperation.

⁸ According to the INS Detention Standard entitled “*Religious Practices*,” “The food service will implement procedures for accommodating, within reason, detainees’ religious dietary requirements.”