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**MEMORANDUM**  
September 28, 2007

### CONFIDENTIAL

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

**From:** American Bar Association Delegation to the Monmouth County Correctional Institute<sup>1</sup>

**Copies to:** ██████████ (b)(6) ABA Commission on Immigration

**Subject:** Report on Observational Tour of the Monmouth County Correctional Institute, Freehold, NJ

This memorandum summarizes and evaluates information gathered at the Monmouth County Correctional Institute ("MCCI" or "the facility") in Freehold, New Jersey, during the delegation's August 1, 2007 visit to the facility. The information was gathered via observation of the facility by the delegation, interviews with two detainees, and discussions with MCCI and Immigration and Customs Enforcement ("ICE") personnel.

### I. ICE DETENTION STANDARDS

In November 2000, the Immigration and Naturalization Service (INS),<sup>2</sup> promulgated the "INS 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. These standards apply to ICE-operated detention centers and other facilities that house immigration detainees pursuant to a contract or intergovernmental service agreement ("IGSA").

The Detention Standards (the "Standards") went into effect at ICE-operated detention facilities on January 1, 2001. ICE intended to phase in the Standards at all of its contract and

<sup>1</sup> The delegation was comprised of attorneys and summer associates from the New York office of Latham & Watkins LLP, including ██████████ (b)(6) and ██████████ (b)(6)

<sup>2</sup> Effective March 1, 2003, the INS ceased to exist as an agency of the Department of Justice. The INS' immigration enforcement functions were transferred to Immigration and Customs Enforcement ("ICE"), a division of the newly-created Department of Homeland Security ("DHS").

IGSA facilities by December 31, 2002. The Standards constitute a floor rather than a ceiling for the treatment of immigration detainees. In other words, they are designed to establish the minimum requirements to which ICE must adhere in its facilities. Each Field Office or Officer-in-Charge has discretion to promulgate policies and practices affording ICE detainees more enhanced rights and protections, beyond those provided for by the Standards.

## II. INTRODUCTION

### The Delegation's Visit, August 1, 2007

On Wednesday, August 1, 2007, in Freehold, NJ, the members of our delegation met with several members of MCCI's staff and representatives from the ICE local field office. Monmouth County Sheriff (b)(6), (b)(7)c, Lieutenant (b)(6), (b)(7)c, Warden (b)(6), (b)(7)c, ICE Agent (b)(6), (b)(7)c, ICE Office (b)(6), (b)(7)c, and ICE Agent (b)(6), (b)(7)c led our delegation on a tour of the facilities and participated in post-tour follow-up discussions. Also present during the tour and post-tour discussions were Lieutenant (b)(6), (b)(7)c, Captain (b)(6), (b)(7)c, Lieutenant (b)(6), (b)(7)c, Sergeant (b)(6), (b)(7)c, Sergeant (b)(6), (b)(7)c, and Sergeant (b)(6), (b)(7)c. The delegation also met with other MCCI personnel along the tour: Sergeant (b)(6), (b)(7)c, Captain (b)(6), (b)(7)c, and Health Services Administrator (b)(6), (b)(7)c. The delegation appreciates the cooperation of these individuals; they were direct and accommodating during our tour of the facility.

Our report is based on the discussions we had with these MCCI and ICE employees, as well as observations of the facility and interviews with two immigration detainees. In many instances, the detainees' reports were compatible with statements made by facility personnel and our observations. In such cases, the delegation was able to determine more accurately whether MCCI policy and procedures successfully meet the Standards. However, in certain instances, the detainees' reports conflicted with statements made by facility personnel. Where we were unable to reconcile the conflicting reports, the delegation was unable to determine conclusively whether the Standards are being met.

### General Information About the Monmouth County Correctional Institute

The Monmouth County Correctional Institute houses federal immigration detainees according to an intergovernmental service agreement ("IGSA") with ICE. According to the MCCI personnel, the Facility has the capacity to hold 1,328 individuals. MCCI has a current population of 1,296 inmates, 147 of whom are immigration detainees. MCCI houses mostly males. At the time of our visit, the facility personnel estimated that eleven women were housed there. Warden Frazier and Officer (b)(6), (b)(7)c told the delegation that the facility housed immigration detainees from many different countries but could not state with certainty which country was the most represented amongst the detainee population. Officer (b)(6), (b)(7)c stated that many of the MCCI's detainees are Spanish speakers. Warden (b)(6), (b)(7)c estimated that the majority of ICE detainees stay at MCCI between 60 and 90 days.

## III. LEGAL ACCESS STANDARDS

### A. Visitation

#### 1. Visitation by Attorneys

The Standards require that facilities permit legal visitation seven days per week.<sup>3</sup> Attorneys should have access to their clients eight hours per day during the week and four hours per day during the weekend.<sup>4</sup> The visits must be private.<sup>5</sup> Detention centers should permit visits from attorneys, other legal representatives, legal assistants, and interpreters.<sup>6</sup>

**MCCI meets this section of the Standards.** The MCCI Inmate Handbook provides that “members of the Clergy, Religious Leaders, and Attorneys shall be allowed to visit their clients as frequently as necessary.”<sup>7</sup> Detainees may meet with their attorneys for eight hours per day during weekdays if necessary, and on the weekends.<sup>8</sup> There are approximately six private attorney visitation booths, including two booths for detainees to connect remotely with courtrooms for hearings.<sup>9</sup>

## 2. Visitation by Family and Friends

To maintain detainee morale and family relationships, the Standards encourage visits from family and friends.<sup>10</sup> The Standards require that facilities establish written visitation hours and procedures, post them where detainees can see them, and make them available to the public.<sup>11</sup> Visiting hours shall be set on Saturdays, Sundays, and holidays, and the Standards encourage facilities to accommodate visitors at other times when they are facing a particular hardship.<sup>12</sup> Visits should be at least thirty minutes long, and longer when possible.<sup>13</sup>

**MCCI meets this section of the Standards.** The visitation schedule is clearly posted at the entrance to the facility.<sup>14</sup> Visiting hours are as follows:

Wednesday

12:00 - 8:00 p.m.

Registration 12:15 - 1:30 p.m. Male Visits (A-L)

1:45 - 3:00 p.m. Male Visits (M-Z)

3:30 - 4:00 p.m. Female Visits (A-Z)

Contact Visits 5:00 - 7:00 p.m.

<sup>3</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

<sup>4</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

<sup>5</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.9.

<sup>6</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.3.

<sup>7</sup> MCCI Inmate Handbook, Section 1(E)(7).

<sup>8</sup> Notes of delegation member [REDACTED] in conversation with Sheriff [REDACTED].

<sup>9</sup> Observations of delegation member [REDACTED].

<sup>10</sup> Detention Operations Manual, Detainee Services, Standard 17, Section I.

<sup>11</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.A & B.

<sup>12</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>13</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>14</sup> Observations of delegation member [REDACTED].

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Thursday

12:00 - 8:00 p.m.

Registration 1:45 - 3:00 p.m. Male Visits (M-Z)

3:30 - 4:00 p.m. Male Visits (A-L)

12:15 - 1:30 p.m. Female Visits (A-Z)

Protective Custody 5:00 - 7:00 p.m.

Friday

8:00 a.m. - 4:00 p.m.

Registration 8:30 a.m. - 12:00 p.m. Contact Visits

12:30 - 3:00 p.m. Protective Custody, ADSEG Visits (A-Z)

Saturday

8:00 a.m. - 4:00 p.m.

Registration 8:00 - 9:30 a.m. Male Visits (A-L)

10:30 - 11:30 a.m. Male Visits (M-Z)

11:30 - 12:00 p.m. Female Visits (A-Z)

Contact Visits 1:00 - 3:00 p.m.

Sunday

8:00 a.m. - 4:00 p.m.

Registration 11:30 - 12:30 p.m. Male Visits (M-Z)

10:30 - 11:30 a.m. Male Visits (A-L)

8:00 - 9:30 a.m. Female Visits (A-Z)

Contact Visits 1:00 - 3:00 p.m.<sup>15</sup>

There is a conflict between the publicly available visiting hours regulations copied above, which allow contact visits on Wednesdays and weekends, and the Handbook, which allows for such visits only on Fridays.<sup>16</sup> Visiting hours may be changed with permission of the Warden for special circumstances.<sup>17</sup> The visiting areas appeared spacious and clean, with a relatively large number of seats for visitors and inmates.<sup>18</sup>

According to the schedule above, each detainee may receive up to five visitors for fifty minutes.<sup>19</sup> Contact visits are available for inmates who have been in the facility ninety days.<sup>20</sup> Minors may also visit the facility if accompanied by an adult.<sup>21</sup>

<sup>15</sup> Observations of delegation member (b)(6) information also available at <http://www.visitmonmouth.com/sheriff/visitinghours.asp>.

<sup>16</sup> MCCI Inmate Handbook, p. 8.

<sup>17</sup> MCCI Inmate Handbook, p. 9.

<sup>18</sup> Observations of delegation member (b)(6)

<sup>19</sup> MCCI Inmate Handbook, p. 7; notes of delegation member (b)(6) on interview with detainee (b)(6)

<sup>20</sup> Notes of delegation member (b)(6) on conversation with Sheriff (b)(6), (b)(7)

Inmates may leave the facility to attend a bedside visit or funeral of a sick relative, as defined in the Handbook, if a court order is obtained.<sup>22</sup>

B. Telephone Access

1. General Requirements

The Standards require that facilities provide detainees with reasonable and equitable access to telephones during established facility waking hours.<sup>23</sup> In order to meet this requirement, facilities must provide at least one telephone for every twenty-five detainees.<sup>24</sup> The Standards also require that telephone access rules be provided in writing to each detainee upon admittance, and that the rules be posted where detainees may easily see them.<sup>25</sup>

**MCCI meets this section of the Standards.** Each male housing unit has its own set of phones, providing approximately one phone per nine detainees.<sup>26</sup> The telephones are accessible during open dayroom periods, between the hours of 9:00 a.m. and 9:00 p.m.<sup>27</sup> The one female housing unit had three phones, also accessible between the hours of 9:00 a.m. and 9:00 p.m. (female detainees are housed with female inmates of the appropriate classification in a dormitory-style unit).<sup>28</sup>

In the male and female housing units, telephone usage rules and instructions regarding usage of the phones are posted on a bulletin board approximately twenty feet from the phones. These instructions appeared to be in English only.<sup>29</sup> The phone numbers of local consulates and legal service organizations are also posted on this board.<sup>30</sup>

2. Direct Calls and Free Calls

The Standards allow facilities to generally restrict calls to collect calls,<sup>31</sup> however, the facility must permit detainees to make direct calls to the local immigration court and the Board of Immigration Appeals, federal and local courts, consular officials, legal service providers, government offices, and to family members in case of emergency.<sup>32</sup> The facility shall not

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<sup>21</sup> MCCI Inmate Handbook, p. 9.

<sup>22</sup> MCCI Inmate Handbook, p. 9.

<sup>23</sup> Detention Operations Manual, Detainee Services, Standard 16, Sections I & III.A.

<sup>24</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.C.

<sup>25</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.B.

<sup>26</sup> Observations of delegation member (b)(6) There are eight phones available in each male detainee housing unit, with approximately 136 male detainees split between the two housing units.

<sup>27</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6); (b)(7)(c)

<sup>28</sup> Notes of delegation member (b)(6) on conversation with Officer (b)(6); (b)(7); observations of delegation member (b)(6)

<sup>29</sup> Observations of delegation member (b)(6)

<sup>30</sup> Observations of delegation member (b)(6)

<sup>31</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>32</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

require indigent detainees to pay for these types of calls if local, nor for non-local calls if there is a compelling need.<sup>33</sup> In addition, the facility “shall enable all detainees to make calls to the [ICE]-provided list of free legal service providers and consulates at no charge to the detainee or the receiving party.”<sup>34</sup>

**MCCI does not meet this section of the Standards: only one legal service provider may be reached free of charge.** The detainee housing unit contained a bulletin board with a list of pre-programmed telephone codes for placing direct, free-of-charge calls to local consulates, immigration courts and the Legal Aid Society.<sup>35</sup> However, though the numbers for local legal service providers other than the Legal Aid Society are posted, they do not have a pre-programmed telephone code and thus detainees are required to call collect or use a pre-paid calling card to contact them.<sup>36</sup> Officer (b)(6), (b)(7)(c) stated that they do not have such codes for those other service providers because “those numbers are constantly changing” and it would require too much work to update the pre-programmed codes accordingly.<sup>37</sup> The delegation observed Officer (b)(6), (b)(7)(c) place one pre-programmed call to a consulate.<sup>38</sup> According to Sergeant (b)(6), (b)(7)(c) detainees are able to arrange inter-facility telephone calls to immediate family members through the facility’s ICE representative, who coordinates the call with MCCI’s social services department.<sup>39</sup> The delegation was not able to verify whether detainees are able to make such calls in practice.

### 3. Telephone Access to Legal Representatives

The Standards provide that the facility shall not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by automatic cutoff, unless necessary for security purposes or to maintain orderly and fair access to telephones.<sup>40</sup> If time limits are necessary, they shall be no shorter than twenty minutes.<sup>41</sup> The Standards require that the facility ensure privacy for detainees’ telephone calls regarding legal matters, and that calls shall not be electronically monitored absent a court order.<sup>42</sup>

**MCCI does not meet this section of the Standards: the facility does not enable detainees to make private legal calls, and all calls are recorded.** The facility imposes no time limitation on outgoing telephone calls made by detainees.<sup>43</sup> However, detainees are unable to

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

<sup>34</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>35</sup> Observations of delegation members (b)(6) notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)(c)

<sup>36</sup> Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)(c)

<sup>37</sup> Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)(c)

<sup>38</sup> Observations of delegation member (b)(6)

<sup>39</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)(c)

<sup>40</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

<sup>41</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

<sup>42</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.J.

<sup>43</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)(c)

make private telephone calls, because the phones where detainees make outgoing calls are all located in the public dayrooms with no privacy safeguards.<sup>44</sup> The telephones are out in the open, and there are no partitions.<sup>45</sup> Moreover, according to Sgt. (b)(6), (b)(7)c all phone conversations made on the outgoing phones are automatically recorded by the facility.<sup>46</sup> When placing outgoing calls, a pre-recorded message informs detainees that the call "may be" monitored or recorded, though according to Sgt. (b)(6), (b)(7)c they are always recorded, without exception.<sup>47</sup> There is no procedure in place that allows detainees to make a telephone call that is not recorded.<sup>48</sup> One detainee reported that a MCCI employee monitoring a call she made to a family member actually spoke to her on the telephone line during her conversation and then disconnected her call.<sup>49</sup>

According to Sgt. (b)(6), (b)(7)c there are no opportunities at MCCI for detainees to have private phone calls with attorneys, even if the calls are initiated by an attorney representing a detainee and are set up in advance.<sup>50</sup>

#### 4. Incoming Calls and Messages

The Standards require that facilities take and deliver messages from attorneys and emergency incoming telephone calls to detainees as promptly as possible.<sup>51</sup> If the facility receives an emergency telephone call for a detainee, the Standards suggest that the facility obtain the caller's name and number and permit such detainee to return the emergency call as soon as possible.<sup>52</sup>

**MCCI does not meet this section of the Standards. According to staff, incoming phone calls and messages are generally not accepted at MCCI, with the exception of emergency telephone calls or in other limited circumstances.** Sgt. (b)(6), (b)(7)c explained to the delegation that the facility does not accept any incoming telephone calls, except in the case of a family emergency or in other limited circumstances to be determined at the facility's discretion.<sup>53</sup> In the case of a family emergency, one of MCCI's social workers refers the call to the appropriate detainee and provision is made for the detainee to receive or return the call at the social worker's office.<sup>54</sup> The facility generally does not accept incoming phone calls and

<sup>44</sup> Observations of delegation member (b)(6)

<sup>45</sup> Observations of delegation member (b)(6)

<sup>46</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)c

<sup>47</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)c

<sup>48</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)c

<sup>49</sup> Notes of delegation member (b)(6) on interview with detainee (b)(6)

<sup>50</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)c

<sup>51</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

<sup>52</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

<sup>53</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)c two detainees alluded to incoming call messages that were taken by MCCI staff for detainees. Notes of delegation member (b)(6) on conversations with detainees (b)(6)

<sup>54</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)c

messages from attorneys; instead, detainees must periodically make outgoing calls to their attorneys or receive legal communications via mail.<sup>55</sup>

#### 5. Telephone Privileges in Special Management Unit

The Standards provide that detainees in the Special Management Unit ("SMU") for disciplinary reasons shall be permitted to make direct and/or free calls, except under compelling security conditions.<sup>56</sup>

**MCCI does not fully meet this section of the Standards: detainees in the SMU only have access to a telephone for one hour per day.** Detainees at MCCI placed in the SMU for disciplinary reasons have access to a cordless telephone handset which they can use to make collect calls or calls with a personal calling card.<sup>57</sup> However, the facility limits use of this portable phone to one hour per day, even in the absence of compelling security conditions.<sup>58</sup> Insofar as the Standards require that telephone calls to legal representatives shall not be limited in number or duration "unless necessary for security purposes or to maintain orderly and fair access to telephones,"<sup>59</sup> MCCI's one hour time limit for detainees in disciplinary segregation, regardless of security concerns, does not meet the Standards.

#### C. Access to Library and Legal Material

All facilities with detainees "shall permit detainees access to a law library, and provide legal materials, facilities, equipment and document copying privileges, and the opportunity to prepare legal documents."<sup>60</sup>

##### 1. Library Access

The Standards suggest that each facility shall have a flexible schedule for law library use that permits all detainees, regardless of housing or classification, to use the law library on a regular basis.<sup>61</sup> Each detainee shall be permitted to use the law library for a minimum of five hours per week.<sup>62</sup>

**MCCI does not fully meet this section of the Standards: detainees are generally only permitted to use the library for three hours and twenty minutes per week.** MCCI permits all detainees to use the law library, regardless of their classification.<sup>63</sup> MCCI does not, however, meet the time allotments suggested in the Standards. Detainees at MCCI have access to the law

<sup>55</sup> Notes of delegation member [REDACTED] on conversation with Sgt. [REDACTED] b6, b7c

<sup>56</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

<sup>57</sup> Notes of delegation member [REDACTED] on conversation with Sgt. [REDACTED]

<sup>58</sup> Notes of delegation member [REDACTED] on conversation with Sgt. [REDACTED] (b)(6), (b)(7)c

<sup>59</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

<sup>60</sup> Detention Operations Manual, Detainee Services, Standard 1, Section I.

<sup>61</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>62</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>63</sup> Notes of delegation member [REDACTED] on conversation with Sgt. [REDACTED] (b)(6), (b)(7)c

library for only three hours and twenty minutes per week (fifty minutes on Sundays and two hours and thirty minutes on Thursdays).<sup>64</sup> Detainees who are in disciplinary detention have access to the law library for only three hours and twenty minutes per week (one hour and forty minutes on Mondays and fifty minutes on Tuesdays and Wednesdays).<sup>65</sup> Occasionally, detainees may return to the law library outside of their normally scheduled hours.<sup>66</sup> This “call back” time is scheduled for five hours and fifty minutes per week (fifty minutes on Sundays through Thursdays and two hours and thirty minutes on Thursdays).<sup>67</sup>

## 2. Library Conditions

The Standards require that a facility provide a law library with sufficient space to facilitate detainees’ legal research and writing.<sup>68</sup> Furthermore, it must be large enough “to provide reasonable access to all detainees who request its use. It shall contain a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas.”<sup>69</sup>

**MCCI meets this section of the Standards.** MCCI provides a law library that is well-lit and has ample space.<sup>70</sup> There are numerous tables and chairs along the perimeter of the library, as well as additional tables and chairs in the center of the room.<sup>71</sup> The law library is located in an enclosed area that is free of distractions and noise.<sup>72</sup>

## 3. Materials Identified in the Detention Standards

The Standards require that all facility law libraries contain the materials listed in Attachment A to the chapter on *Access to Legal Materials*.<sup>73</sup> These materials must be updated regularly, and information must be added on significant regulatory and statutory changes regarding detention and deportation of aliens in a timely manner.<sup>74</sup> Damaged or stolen materials must be promptly replaced.<sup>75</sup>

**MCCI does not meet this section of the Standards: most of the legal materials required under the Standards are not accessible to detainees.** The Standards state that facilities shall provide: *United States Code, Title 8, Aliens and Nationality; Code of Federal*

<sup>64</sup> MCCI Law Library Schedule.

<sup>65</sup> MCCI Law Library Schedule.

<sup>66</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6); (b)(7)c

<sup>67</sup> MCCI Law Library Schedule.

<sup>68</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

<sup>69</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

<sup>70</sup> Observations of delegation member

<sup>71</sup> Observations of delegation member (b)(6)

<sup>72</sup> Observations of delegation member

<sup>73</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

<sup>74</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

<sup>75</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.F.

*Regulations, Title 8, Aliens and Nationality; Bender's Immigration and Nationality Act Service; Bender's INS Regulation Service; Administrative Decisions Under Immigration and Nationality Laws; Immigration Law and Defense; Immigration Law and Crimes; Guide for Immigration Advocates; Country Reports on Human Practices; Human Rights Watch – World Report; UNHCR Handbook on Procedures and Criteria for Determining Refugee Status; Considerations for Asylum Officers Adjudicating Asylum Claims for Women; Immigration and Naturalization Service Basic Law Manual; Lawyer's Committee Handbook on Representing Asylum Applicants; Federal Civil Judicial Procedures and Rules; Legal Research in a Nutshell; Legal Research & Writing: Some Starting Points; Spanish-English Law Dictionary; Directory of Nonprofit Agencies that Assist Persons in Immigration Matters* and telephone books.<sup>76</sup> However, none of these sources are available in the law library at MCCI.<sup>77</sup>

When asked about these materials, Sgt. (b)(6), (b)(7)c noted that all immigration materials could be found “on the wall at the back” of the library.<sup>78</sup> Delegation members inspected all bookshelves in the library, though, and could not locate the sources.<sup>79</sup> Sgt. (b)(6), (b)(7)c then stated that the immigration materials could be found on a Lexis Nexis CD-ROM loaded into all of the library computers.<sup>80</sup> There were four computers in the library; three had signs taped over them reading “For Library Personnel, No Inmate Use.”<sup>81</sup> The one computer not so designated did not have the Lexis Nexis CD-ROM software uploaded.<sup>82</sup> Sgt. (b)(6), (b)(7)c then attempted to locate the software on one of the computers designated for library personnel use.<sup>83</sup> The CD-ROM was not loaded on that computer, either.<sup>84</sup> Two inmates using one of the other library personnel computers were able to open the Lexis-Nexis software, but a search of its contents revealed that it did not store immigration decisions from the Board of Immigration Appeals and Immigration Judges as well as the other source materials listed above. When asked about it, Sgt. (b)(6), (b)(7)c was unable to provide an answer.<sup>85</sup>

The law library supervisor checks for damaged and missing materials.<sup>86</sup> The law library updates its materials yearly, including adding inserts for certain materials.<sup>87</sup>

<sup>76</sup> Detention Operations Manual, Detainee Services, Standard 1, Attachment A.

<sup>77</sup> Observations of delegation members (b)(6) and (b)(6)

<sup>78</sup> Notes of delegation member (b)(6) in conversation with Sgt. (b)(6), (b)(7)c

<sup>79</sup> Observations of delegation members (b)(6) and (b)(6)

<sup>80</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)c

<sup>81</sup> Observations of delegation member (b)(6)

<sup>82</sup> Observations of delegation member (b)(6)

<sup>83</sup> Observations of delegation member (b)(6)

<sup>84</sup> Observations of delegation member (b)(6)

<sup>85</sup> Notes of delegation member (b)(6) on conversation with Sgt. (b)(6), (b)(7)c

<sup>86</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>87</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

4. Library Equipment and Supplies

The Standards require that facility law libraries 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>88</sup> Staff must inspect at least weekly to ensure equipment is in working order and to stock sufficient supplies.<sup>89</sup> In addition, indigent detainees must be provided free envelopes and stamps for legal mail.<sup>90</sup>

**MCCI does not appear to fully meet this section of the Standards: providing only one computer for use by 1,296 inmates and detainees does not appear adequate.** MCCI has four computers and three typewriters, though three of those computers are designated for “library personnel” use.<sup>91</sup> However, two inmates were using one such computer during the delegation’s tour.<sup>92</sup> Pens and paper are available to the detainees upon request.<sup>93</sup> Detainees may buy stamps at face value, or, if the detainee is indigent, the stamps and envelopes are provided for free.<sup>94</sup> The law library supervisor makes sure that all of these supplies are stocked and available.<sup>95</sup>

5. Photocopies

The Standards provide 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>96</sup> Enough copies must be provided so that a detainee can fulfill court procedural rules and retain a copy for his records.<sup>97</sup> Facility personnel may not read a document that on its face is clearly related to a legal proceeding involving the detainee.<sup>98</sup>

**MCCI meets this section of the Standards.** Detainees at MCCI may have copies made for \$0.10 per page.<sup>99</sup> If a detainee is indigent, the copies are free.<sup>100</sup> There is no limit to the number of copies a detainee may request, unless the number seems excessive to the law library supervisor.<sup>101</sup>

<sup>88</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

<sup>89</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

<sup>90</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.N.

<sup>91</sup> Observations of delegation members [redacted] and [redacted]

<sup>92</sup> Observations of delegation members [redacted] and [redacted]

<sup>93</sup> Notes of delegation member [redacted] on conversation with Sgt. [redacted]

<sup>94</sup> Notes of delegation member [redacted] on conversation with Sgt. [redacted]

<sup>95</sup> Notes of delegation member [redacted] on conversation with Sgt. [redacted]

<sup>96</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>97</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>98</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

<sup>99</sup> Notes of delegation member [redacted] on conversation with Sgt. [redacted]

<sup>100</sup> Notes of delegation member [redacted] on conversation with Sgt. [redacted]

<sup>101</sup> Notes of delegation member [redacted] on conversation with Sgt. [redacted]

## 6. Assistance From Other Detainees

The Standards require that each facility permit detainees to assist other detainees in researching and preparing legal documents upon request, except when such assistance poses a security risk.<sup>102</sup>

**MCCI meets this section of the Standards.** Detainees are allowed to assist other detainees with research at their own will.<sup>103</sup>

## 7. Notice to Detainees

The Standards require that the detainee handbook provide detainees with the rules and procedures governing access to legal materials.<sup>104</sup>

**MCCI does not meet this section of the Standards: the Handbook does not specify the rules and procedures for utilizing the law library or for obtaining legal materials.**<sup>105</sup> The Handbook only says that law books are available in the law library and that detainees are allowed to use the law library.<sup>106</sup>

### D. Group Rights Presentations

The Standards provide that facilities holding ICE detainees “shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures, consistent with the security and orderly operation of each facility.”<sup>107</sup> Informational posters are to be prominently displayed in the housing units at least forty-eight hours in advance of a scheduled presentation.<sup>108</sup> While the presentations are open to all detainees, the facility “may limit the number of detainees at a single session.”<sup>109</sup> “The facility shall select and provide an environment conducive to the presentation, consistent with security.”<sup>110</sup> In addition, detainees shall have regular opportunities to view an “INS-approved videotaped presentation on legal rights.”<sup>111</sup>

**MCCI does not fully meet this section of the Standards: there is no legal rights video shown at the facility on a regular basis.** According to MCCI personnel, legal rights presentations take place whenever an organization requests to make such a presentation.<sup>112</sup>

<sup>102</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.Q.

<sup>103</sup> Notes of delegation member (b)(6) in conversation with Sgt. (b)(6), (b)(7)c

<sup>104</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.K.

<sup>105</sup> MCCI Inmate Handbook, pp. 18-19.

<sup>106</sup> MCCI Inmate Handbook, pp. 12, 18.

<sup>107</sup> Detention Operations Manual, Detainee Services, Standard 9, Section I.

<sup>108</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

<sup>109</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

<sup>110</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.E.

<sup>111</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.I.

<sup>112</sup> Notes of delegation member (b)(6) in conversation with Lt. (b)(6), (b)(7)c

These presentations are announced in the living area,<sup>113</sup> or a sign-up sheet is passed around to the detainees.<sup>114</sup> Any detainee may attend these presentations, which are often held in a classroom.<sup>115</sup> There is no ICE-approved videotaped presentation on legal rights available for detainees to view on a regular basis.<sup>116</sup> One detainee who had been at the facility for two and a half months and another who had been there for six months both stated that they had never heard about nor attended any “Know Your Rights” presentations.<sup>117</sup>

#### IV. OTHER PROVISIONS OF THE ICE DETENTION STANDARDS

##### A. Correspondence and Other Mail

The Standards require that detainees be allowed to send and receive correspondence in a timely manner, subject to limitations required for safety, security, and orderly operation of the facility.<sup>118</sup> General correspondence shall normally be opened and inspected for contraband in the presence of the detainee, but may be opened and even read outside the presence of the detainee if security reasons exist for doing so.<sup>119</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.<sup>120</sup> Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but it can never be read or copied.<sup>121</sup> Outgoing special correspondence may not be opened, inspected, or read.<sup>122</sup>

The detainee handbook must specify how to address correspondence, the definition of special correspondence and how it should be labeled, and the procedure for purchasing postage and rules for providing indigent detainees free postage.<sup>123</sup> The Standards also require that facilities provide all detainees with writing paper, implements and envelopes at no cost, and provide indigent detainees with free envelopes and stamps for mail related to a legal matter, including correspondence to a legal representative, potential representative, or any court.<sup>124</sup> Finally, the Standards require that facilities notify detainees of specific information regarding correspondence policies.<sup>125</sup>

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<sup>113</sup> Notes of delegation member [redacted] on conversation with Lt. [redacted]  
<sup>114</sup> Notes of delegation member [redacted] on conversation with Lt. [redacted]  
<sup>115</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)C  
<sup>116</sup> Notes of delegation member [redacted] on conversation with Sgt [redacted]  
<sup>117</sup> Notes of delegation member (b)(6) in interview with detainees [redacted] (b)(6)  
<sup>118</sup> Detention Operations Manual, Detainee Services, Standard 3, Section I.  
<sup>119</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.  
<sup>120</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B, E, & F.  
<sup>121</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.  
<sup>122</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & F.  
<sup>123</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.B.  
<sup>124</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.I, and Standard 1, Section III.N.  
<sup>125</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

MCCI does not fully meet this section of the Standards; the Handbook does not include several required notifications, all general correspondence is opened outside of detainees' presence, and writing implements are not free of charge. MCCI provides all detainees with an Inmate Handbook.<sup>126</sup> However, this handbook does not provide the following information as required: 1) "the definition of special correspondence, including instructions on the proper labeling for special correspondence . . . . [and a] statement that it is the detainee's responsibility to inform senders of special mail of the labeling requirement"; 2) the fact that identity documents, such as passports and birth certificates, are contraband and may be rejected by the facility; 3) instructions on how incoming mail should be addressed; 4) a notification that "general correspondence . . . shall be opened and inspected in the detainee's presence, unless the [Officer in Charge] authorizes inspection without the detainees presence for security reasons"; and 5) a notification that "special correspondence may only be opened in the detainee's presence."<sup>127</sup>

According to Lt. (b)(6), (b)(7)c the facility opens and inspects all general correspondence for contraband outside of the receiving detainee's presence.<sup>128</sup> Lt. (b)(6), (b)(7)c said that a New Jersey state law, passed in the wake of September 11, 2001, is the reason for this.<sup>129</sup> Moreover, MCCI does not appear to treat mail from the media or politicians as "special correspondence" as required by the Standards.<sup>130</sup>

Lt. (b)(6), (b)(7)c noted that only indigent detainees are provided writing materials at no charge. Although the standards require that facilities "shall provide writing paper, writing implements and envelopes at no cost to detainees,"<sup>131</sup> all non-indigent detainees must pay for writing materials and envelopes themselves by purchasing them through the Commissary.<sup>132</sup>

### B. Detainee Handbook

The Standards require that every Officer in Charge develop a site-specific detainee handbook to serve as an overview of detention policies, rules, and procedures, and specify that every detainee will receive a copy of the handbook upon admission to the facility.<sup>133</sup> The handbook must include visitation hours and rules.<sup>134</sup> The handbook must notify detainees of the facility correspondence policy.<sup>135</sup> The handbook must provide notice of the facility's rules of

<sup>126</sup> Notes of delegation member (b)(6) on interviews with Sheriff (b)(6), (b)(7)c

<sup>127</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

<sup>128</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>129</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>130</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.E; notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>131</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.J.

<sup>132</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>133</sup> Detention Operations Manual, Detainee Services, Standard 6, Section I.

<sup>134</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.B.

<sup>135</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

conduct and the sanctions imposed.<sup>136</sup> It must advise detainees of rights including the right to protection from abuse and harassment, right to freedom from discrimination, and right to pursue a grievance.<sup>137</sup>

**It is unclear whether MCCI fully meets this section of the Standards: one detainee stated that she did not receive a copy of the handbook, and the handbook does not advise detainees of their right to protection from abuse, harassment, and discrimination.** Corrections officials indicated that every inmate receives copies of the Handbook during processing upon entry into the facility.<sup>138</sup> One detainee indicated that she did not receive the Handbook when she arrived at the facility;<sup>139</sup> the other detainee we interviewed said that she did.<sup>140</sup> The handbook includes information on visitation hours and rules, the mail policy, notice of rules and sanctions, and the right to pursue grievances.<sup>141</sup> However, it does not advise detainees of their right to protection from abuse and harassment or right to freedom from discrimination.<sup>142</sup> Additional observations regarding information lacking in the Inmate Handbook, including Staff-Detainee Communication, are included below.

### C. Recreation

The Standards require that all detainees have access to recreational programs and activities, under conditions of security and safety.<sup>143</sup> Detainees should be housed in facilities with outdoor recreation.<sup>144</sup> If a facility only provides indoor recreation, detainees must have access for at least one hour per day, including exposure to natural light.<sup>145</sup> Detainees should have access to “fixed and movable equipment,” including opportunities for cardiovascular exercise, and games and television in dayrooms.<sup>146</sup> Under no circumstances will a facility require detainees to forego law library privileges for recreation privileges.<sup>147</sup>

**MCCI meets this section of the Standards.** MCCI has both outdoor recreation and indoor recreation rooms with access to natural light.<sup>148</sup> There is an outdoor patio with a

<sup>136</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

<sup>137</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

<sup>138</sup> Notes of delegation member [REDACTED] on interviews with Sheriff [REDACTED] (b)(6), (b)(7)c

<sup>139</sup> Notes of delegation member [REDACTED] (b)(6) on interview with detainee [REDACTED]

<sup>140</sup> Notes of delegation member [REDACTED] on interview with detainee [REDACTED] (b)(6)

<sup>141</sup> MCCI Inmate Handbook, Sections 1(B), (C), & (P), and Sections 3(F), (G), & (P)(1).

<sup>142</sup> MCCI Inmate Handbook, Section 2.

<sup>143</sup> Detention Operations Manual, Detainee Standards, Recreation, Section I.

<sup>144</sup> Detention Operations Manual, Detainee Standards, Recreation, Section III.A, which also provides that “all new or renegotiated contracts and IGSA’s will stipulate that INS detainees have access to an outdoor recreation area.”

<sup>145</sup> Detention Operations Manual, Detainee Standards, Recreation, Section III.B.

<sup>146</sup> Detention Operations Manual, Detainee Standards, Recreation, Section III.G.

<sup>147</sup> Detention Operations Manual, Detainee Standards, Recreation, Section III.B.

<sup>148</sup> Observations of delegation member [REDACTED] (b)(6)

basketball hoop that is shared between the two “pods” of male detainees.<sup>149</sup> Following breakfast and until evening, the two pods alternatively have access to the outdoor patio in four hour intervals.<sup>150</sup> The women have similar access to a similar outdoor area.<sup>151</sup>

The male detainees also have free access to an indoor weight room that remains open for the entire day.<sup>152</sup> Both male and female detainees have a dayroom, where detainees can watch television, play board games, and use the pay phone.<sup>153</sup> Detainees have access to natural sunlight at all times.<sup>154</sup>

Detainees in segregation, for both disciplinary and administrative purposes, receive one hour of outdoor recreation daily.<sup>155</sup> Detainees in the lowest level of protective custody are allowed outdoor recreation with limited interaction, while detainees held in the higher level of protective custody or that are restricted due to disciplinary reasons only have access to an outdoor five by fourteen foot cage.<sup>156</sup> These recreation areas do not provide equipment for muscular or cardiovascular exercise.<sup>157</sup> There is no recreation or outdoor access for detainees in the infirmary.<sup>158</sup>

D. Access to Medical Care

The Standards require that all detainees have access to medical services that promote detainee health and general well being.<sup>159</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>160</sup> For a facility of over 200 detainees, there must be sick call five days per week.<sup>161</sup> Facilities must also have procedures in place to provide emergency medical care for detainees who require it.<sup>162</sup>

**MCCI meets this section of the Standards.** All detainees at MCCI are screened for medical issues upon their initial processing, which takes place on the day they arrive at the

<sup>149</sup> Observations of delegation member [REDACTED] (b)(6)

<sup>150</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>151</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>152</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Lt. [REDACTED]

<sup>153</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED] notes of delegation member Miriam Rodgers, on interview with detainee [REDACTED] (b)(6)

<sup>154</sup> Observations of delegation member [REDACTED] (b)(6) [REDACTED] (b)(6), (b)(7)

<sup>155</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>156</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Lt. [REDACTED]

<sup>157</sup> Observation of delegation member [REDACTED] (b)(6)

<sup>158</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Lt. [REDACTED]

<sup>159</sup> Detention Operations Manual, Health Services, Section I.

<sup>160</sup> Detention Operations Manual, Health Services, Section III.F.

<sup>161</sup> Detention Operations Manual, Health Services, Section II.F.

<sup>162</sup> Detention Operations Manual, Health Services, Section III.A, D, and G.

facility.<sup>163</sup> During the screening, detainees are given a PPD screening for tuberculosis ("TB").<sup>164</sup> If a detainee is suspected of having TB, the detainee is held in an isolation room until an x-ray confirms or negates the possibility of TB infection.<sup>165</sup>

There is a regularly scheduled sick call seven days a week, provided by CSS, the on-site contract medical provider.<sup>166</sup> There is at least one doctor on staff seven days a week, and during the day there are eight medical personnel on site.<sup>167</sup> Detainees are not required to indicate why they are requesting sick call when they do so, and receive medical services the same day.<sup>168</sup> On site medical personnel are able to provide IVs, recovery from surgery, isolation rooms for suspected TB, etc.<sup>169</sup> An OB-GYN is made available to pregnant detainees.<sup>170</sup> There is an on-site pharmacy, and medications are distributed three times a day.<sup>171</sup> There is a 1-800 number with translators available twenty-four hours a day, seven days a week to assist with non-English speaking detainees.<sup>172</sup> However, according to one detainee, the translators are not always made available to detainees.<sup>173</sup>

On-site mental health care is provided from 8:00 a.m. until 4:00 p.m., Monday through Friday.<sup>174</sup> There is at least one, and usually two to three mental health personnel on site.<sup>175</sup> The detention officers arrange for hospitalization and off site mental health care when necessary.<sup>176</sup>

The facility obtains signed and dated consent forms from detainees in non-emergency situations.<sup>177</sup> If forced treatment is necessary, the facility involves ICE and the detainee's attorney.<sup>178</sup> The facility also maintains different medical logs to protect patient-detainees' confidentiality.<sup>179</sup>

<sup>163</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]  
<sup>164</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]  
<sup>165</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED] (b)(6), (b)(7)  
<sup>166</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]  
<sup>167</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Health Services Administrator r.  
<sup>168</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]  
<sup>169</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED] (b)(6), (b)(7)  
<sup>170</sup> Notes of delegation member [REDACTED] on conversation with Health Services Administrator [REDACTED] (b)(6)  
<sup>171</sup> Notes of delegation member [REDACTED] on conversation with Health Services Administrator [REDACTED]  
<sup>172</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED] (b)(6), (b)(7)  
<sup>173</sup> Notes of delegation member [REDACTED] on interview with detainee [REDACTED] (b)(6) [REDACTED] (b)(6)  
<sup>174</sup> Notes of delegation member [REDACTED] on conversation with Health Services Administrator [REDACTED]  
<sup>175</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Health Services Administrator [REDACTED]  
<sup>176</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]  
<sup>177</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]  
<sup>178</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED] (b)(6), (b)(7)  
<sup>179</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

E. Access to Dental Care

The Standards require that detainees have an initial dental screening exam within fourteen days of their arrival, and require the facility to provide emergency dental treatment and repair of prosthetic appliances.<sup>180</sup> For detainees who are held in detention for over six months, routine dental treatment may be provided.<sup>181</sup>

**MCCI appears to meet this section of the Standards.** The detainees receive an initial dental screening by the nurse in the course of their initial medical screening.<sup>182</sup> If dental care is provided, CCS provides on-site dentists.<sup>183</sup>

F. Hunger Strikes

The Standards require that all facilities follow accepted standards of care and administrative management of hunger-striking detainees.<sup>184</sup> Facilities must do everything within their means to monitor and protect the health and welfare of the hunger-striking detainee and must make every effort to obtain the hunger striker's informed consent for treatment.<sup>185</sup> In IGSA facilities, the "OIC of the facility shall notify [ICE] that a detainee is refusing treatment. Under no circumstances are IGSA facilities to administer forced medical treatment unless granted permission from [ICE]."<sup>186</sup>

**MCCI meets this section of the Standards.** If an inmate or detainee declares a hunger strike, the medical staff then assesses the mental state of the patient, and regularly monitors the patient, including his or her food intake, liquid intake, vital signs, etc.<sup>187</sup> If the hunger strike lasts longer than seventy-two hours, the detainee is moved to the infirmary.<sup>188</sup> The facility notifies ICE of the hunger strike, and does not administer forced feeding unless the court grants an order to do so.<sup>189</sup>

G. Detainee Classification System

The standards require that detention facilities implement the Detainee Classification System (DCS).<sup>190</sup> This classification system is meant to ensure that each detainee is placed in the appropriate category and physically separated from detainees in other categories.<sup>191</sup> Each

<sup>180</sup> Detention Operations Manual, Health Services, Health Care, Section III.E.

<sup>181</sup> Detention Operations Manual, Health Services, Health Care, Section III.E.

<sup>182</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>183</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>184</sup> Detention Operations Manual, Health Services, Hunger Strikes, Section I.

<sup>185</sup> Detention Operations Manual, Health Services, Hunger Strikes, Section I.

<sup>186</sup> Detention Operations Manual, Health Services, Hunger Strikes, Section III.D.

<sup>187</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>188</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>189</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>190</sup> Detention Operations Manual, Detainee Services, Standard 4, Section I.

<sup>191</sup> Detention Operations Manual, Detainee Services, Standard 4, Section I.

detainee is to be classified upon arrival, before being admitted into the general population.<sup>192</sup> The staff is to use the most reliable, objective information from the detainee's A-file or work-folder during the classification process.<sup>193</sup> Detainees are to be assigned housing, offered recreational activities, assigned work (at the detainee's request), and provided food service according to their classification levels.<sup>194</sup>

All facility classification systems shall ensure that a detainee may be reclassified any time and the classification level redetermined.<sup>195</sup> All facility classification systems shall include procedures by which new arrivals can appeal their classification levels.<sup>196</sup> Additionally, the detainee handbook's section on classification will include an explanation of the classification levels, with the conditions and restrictions applicable to each, and the procedures by which a detainee may appeal his/her classification.<sup>197</sup>

**MCCI partially meets this section of the Standards. However, male detainees are not housed based on classification, but instead are all housed together, although they are housed in separate units from the inmates.**<sup>198</sup> Female detainees, on the other hand, are housed with female inmates, based on their classifications.<sup>199</sup> All inmates and detainees are classified when they first arrive at the facility, and housed based on their classification level—minimum, medium, or maximum.<sup>200</sup> The classifications are based on a mixture of factors, such as their criminal history and their behavior.<sup>201</sup> Additionally, all inmates and detainees have the right to appeal their classification level through a written request.<sup>202</sup> The inmate handbook gives both an explanation of classification levels and the procedures by which a detainee may appeal his or her classification.<sup>203</sup>

H. Detainee Grievance Procedures

The standards require that every facility develop and implement standard operating procedures (SOP) that address detainee grievances. Each SOP must establish a reasonable time limit for (i) processing, investigating, and responding to grievances; (ii) convening a grievance committee to review formal complaints; and (iii) providing written responses to detainees who

<sup>192</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.A.

<sup>193</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

<sup>194</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.A.

<sup>195</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.G.

<sup>196</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.H.

<sup>197</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.I.

<sup>198</sup> Notes of delegation member [redacted] on conversation with Officer [redacted]

<sup>199</sup> Notes of delegation member [redacted] on conversation with Officer [redacted]

<sup>200</sup> Notes of delegation member [redacted] on conversation with Sheriff [redacted]

<sup>201</sup> Notes of delegation member [redacted] on conversation with Captain [redacted]

<sup>202</sup> Notes of delegation member [redacted] on conversation with Captain [redacted] MCCI Inmate Handbook, p. 4.

<sup>203</sup> MCCI Inmate Handbook, p. 4.

filed formal grievances, including the basis for the decision.<sup>204</sup> Each facility should make every effort to resolve the detainee’s complaint or grievance at the lowest level possible, in an orderly and timely manner.<sup>205</sup> Detainees must also be allowed to submit a formal, written grievance to the facility’s grievance committee.<sup>206</sup> Each inmate handbook should provide notice of the opportunity to file both informal and formal grievances and the procedures for filing a grievance and appeal.<sup>207</sup>

**MCCI appears to meet this section of the Standards.** According to Captain (b)(6), (b)(7)c if a detainee has a grievance he or she will request a Grievance Form.<sup>208</sup> Upon completing the form, the detainee will insert the form in a Grievance Box that is located in his or her housing unit.<sup>209</sup> Captain (b)(6), (b)(7)c did mention, however, that the Grievance Box in the ICE housing unit had only been installed two days prior to the tour.<sup>210</sup> Once the grievance has been placed in the grievance box, detainees will receive a written response, usually within one and, at most, two days.<sup>211</sup> If the detainee is not happy with the result, he may appeal to the warden.<sup>212</sup> The handbook provides that inmates with detailed notice of their grievance rights, grievance rules, the grievance process and the appeals process.<sup>213</sup>

Detainee (b)(6) stated that she filed a grievance because she had not received the proper depression medication.<sup>214</sup> She stated that within two weeks she was receiving the medication.<sup>215</sup>

I. Disciplinary Policy

The Standards state that facility authorities “will 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>216</sup> Each facility holding ICE detainees must have a detainee disciplinary system which has “progressive levels of reviews, appeals, procedures, and documentation procedures.”<sup>217</sup> The disciplinary policy must clearly define

<sup>204</sup> Detention Operations Manual, Detainee Services, Standard 5, Section I.

<sup>205</sup> Detention Operations Manual, Detainee Services, Standard 5, Section III.A.1.

<sup>206</sup> Detention Operations Manual, Detainee Services, Standard 5, Section III.A.2.

<sup>207</sup> Detention Operations Manual, Detainee Services, Standard 5, Section III.G.

<sup>208</sup> Notes of delegation member (b)(6) on conversation with Captain (b)(6), (b)(7)c

<sup>209</sup> Notes of delegation member (b)(6) on conversation with Captain (b)(6), (b)(7)c

<sup>210</sup> Notes of delegation member (b)(6) on conversation with Captain (b)(6), (b)(7)c

<sup>211</sup> Notes of delegation member (b)(6) on conversation with Captain (b)(6), (b)(7)c

<sup>212</sup> Notes of delegation member (b)(6) on conversation with Captain (b)(6), (b)(7)c

<sup>213</sup> MCCI Inmate Handbook, pp. 33-34.

<sup>214</sup> Notes of delegation member (b)(6) on interview with detainee (b)(6)

<sup>215</sup> Notes of delegation member (b)(6) on interview with detainee (b)(6)

<sup>216</sup> Detention Operations Manual, Security and Control, Standard 5, Section I.

<sup>217</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.1.

detainee rights and responsibilities, and any disciplinary action taken must not be capricious or retaliatory.<sup>218</sup>

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>219</sup> Officers who witness a prohibited act must prepare and submit an incident report.<sup>220</sup> The Standards provide that all incident reports filed by officers must be investigated within twenty-four hours of the incident.<sup>221</sup>

The Detainee Handbook must notify detainees of the disciplinary process, the prohibited acts and disciplinary severity scale, and the procedure for appeals.<sup>222</sup> The handbook must also notify detainees of specific rights, including the right to protection from abuse, harassment, and discrimination, the right to pursue a grievance, and the right to due process, including prompt resolution of a disciplinary matter.<sup>223</sup>

**The MCCI substantially meets this section of the Standards; however, the Inmate Handbook does not inform detainees of their right to protection from abuse, harassment, and discrimination.** When a rules violation occurs, a written report is filed with the Floor Supervisor.<sup>224</sup> According to the Inmate Handbook, reports of major rule infractions will be investigated by a supervisor not involved with the report or infraction within forty-eight hours of the time the disciplinary report is served upon the inmate.<sup>225</sup> The detainee is entitled to receive a copy of the charges within forty-eight hours of the incident, which must include the time, date and place of the violation, the rule allegedly violated, the name of the person asserting the violation and the names of all witnesses, if any.<sup>226</sup> Cases determined serious will then be referred to the Disciplinary Committee for a hearing.<sup>227</sup> The detainee is then entitled to a minimum of twenty-four hours to prepare for his hearing.<sup>228</sup> The Disciplinary Committee will consist of the following people: 1) the Custody Supervisor (who was not personally involved in any way in the incident or violation and 2) two Civilian Designees.<sup>229</sup> Decisions of the

<sup>218</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.1 & A.2.

<sup>219</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.3.

<sup>220</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.B.

<sup>221</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.B and III.C.

<sup>222</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.L.

<sup>223</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

<sup>224</sup> MCCI Inmate Handbook, p. 20; notes of delegation member (b)(6) on conversation with Lt.

(b)(6), (b)(7)c

<sup>225</sup> MCCI Inmate Handbook, p. 20.

<sup>226</sup> MCCI Inmate Handbook, p. 22.

<sup>227</sup> MCCI Inmate Handbook, p. 20.

<sup>228</sup> Notes of delegation member (b)(6) in conversation with Lt. (b)(6), (b)(7)c

<sup>229</sup> MCCI Inmate Handbook, p. 20.

Disciplinary Committee are final, unless an appeal is made in writing to the Captain.<sup>230</sup> Appeals must be made within forty-eight hours after a decision by the committee.<sup>231</sup> Appeal forms will be available on request.<sup>232</sup>

The detainee is entitled to his hearing within seven days after being served with a disciplinary report, including weekends and holidays, unless such hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements.<sup>233</sup> Inmates are notified of the hearing at least twenty-four hours in advance of the hearing.<sup>234</sup> Inmates confined in Pre-hearing Detention will receive a hearing within three days of their placement in Pre-hearing Detention, including weekends and holidays, unless such hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements.<sup>235</sup> Inmates confined in Pre-hearing Detention will be given priority in scheduling their appearance before the Disciplinary Board.<sup>236</sup> Time spent in Pre-hearing Detention will be credited against any subsequent sentence imposed.<sup>237</sup> No delays in hearing a case will be permitted for the purpose of punishment or discipline.<sup>238</sup> A detainee will be provided the opportunity to be present during the Disciplinary Hearing unless there are security reasons, which must be documented in the detainee's record.<sup>239</sup> A detainee has the right to be represented by a counsel substitute, either staff or another detainee.<sup>240</sup> He also has the right to call witnesses on his behalf and any reason for denying the opportunity to call a witness must be stated in writing and filed in the detainee's record.<sup>241</sup> A detainee has the right to make a statement, provide documentary evidence and cross examine his accuser and any adverse witnesses unless doing so would be unduly hazardous to institutional safety or that of the witness.<sup>242</sup> The reasons for denying the detainee this right of confrontation must be stated in writing and filed in his record.<sup>243</sup>

A hearing may be held in a detainee's absence if the detainee refuses to attend the Disciplinary Hearing but documentation of this refusal must be reported in writing.<sup>244</sup> Should any further investigation be required, the Disciplinary Hearing may be postponed by the

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<sup>230</sup> MCCI Inmate Handbook, p. 20.

<sup>231</sup> MCCI Inmate Handbook, p. 20.

<sup>232</sup> MCCI Inmate Handbook, p. 20.

<sup>233</sup> MCCI Inmate Handbook, p. 20.

<sup>234</sup> MCCI Inmate Handbook, p. 20.

<sup>235</sup> MCCI Inmate Handbook, p. 21.

<sup>236</sup> MCCI Inmate Handbook, p. 21.

<sup>237</sup> MCCI Inmate Handbook, p. 21.

<sup>238</sup> MCCI Inmate Handbook, p. 21.

<sup>239</sup> MCCI Inmate Handbook, p. 21.

<sup>240</sup> MCCI Inmate Handbook, p. 21.

<sup>241</sup> MCCI Inmate Handbook, p. 21.

<sup>242</sup> MCCI Inmate Handbook, p. 21.

<sup>243</sup> MCCI Inmate Handbook, p. 21.

<sup>244</sup> MCCI Inmate Handbook, p. 21.

Disciplinary Board for up to forty-eight hours for Prehearing Detention cases and up to seven days for all other hearings.<sup>245</sup>

The Floor Supervisor also has full authority to levy disciplinary action on any inmate for non-serious offenses in lieu of a formal hearing by the Disciplinary Committee.<sup>246</sup> Lt. (b)(6), (b)(7)c described this procedure, dubbed an “On-The-Spot” disciplinary proceeding by the Inmate Handbook. Lt. (b)(6), (b)(7)c stated that a zone supervisor may take a detainee aside, ask for an explanation regarding the event in question and render immediate “on the spot” punishment, which can include locking the detainee’s cell for up to four hours or revoking certain privileges for up to five days.<sup>247</sup> Those privileges include access to the weight room and the right to play in various sporting tournaments held within MCCI.<sup>248</sup> The Handbook states that the following are additional authorized sanctions for On-The-Spot Corrections: verbal reprimand, up to four extra hours work duty, loss of radio or television privileges for a period of no more than five days, and confiscation of offending items.<sup>249</sup> When asked if suspension of privileges also included the suspension of visitation rights, Lt. (b)(6), (b)(7)c stated that visitation rights would only be suspended if the incident meriting disciplinary action involved visitation.<sup>250</sup>

The Handbook states that certain types of punishment are not permitted; punishments may not restrict food, health and sanitary facilities, clothing, access to medical needs, reading and correspondence, hygienic implements or exercise.<sup>251</sup> Further, corporal punishment shall not be permitted at any time in MCCI.<sup>252</sup> However, as stated above, the Handbook does not notify detainees of their right to protection from abuse, discrimination, and harassment.<sup>253</sup>

#### J. Special Management Unit

The Standards suggest that each facility establish a Special Management Unit (“SMU”) that will isolate certain detainees from the general population.<sup>254</sup> The Standards for Administrative and Disciplinary Segregation differ somewhat from one another, but both provide for legal access and other protections. A detainee may be placed in disciplinary segregation only by order of the Institutional Disciplinary Committee, after a hearing in which the detainee has been found to have committed a prohibited act.<sup>255</sup> The disciplinary committee may order

<sup>245</sup> MCCI Inmate Handbook, p. 21.

<sup>246</sup> MCCI Inmate Handbook, p. 20.

<sup>247</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>248</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>249</sup> MCCI Inmate Handbook, p. 28.

<sup>250</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>251</sup> MCCI Inmate Handbook, p. 30.

<sup>252</sup> MCCI Inmate Handbook, pp. 30-31.

<sup>253</sup> MCCI Inmate Handbook, Sections 1(M) & 2.

<sup>254</sup> Detention Operations Manual, Security and Control, Standard 14, Section I.

<sup>255</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.A.

placement in disciplinary segregation only when alternative dispositions would inadequately regulate the detainee's behavior.<sup>256</sup>

All cells in the SMU must be well ventilated, appropriately heated, and sanitary, and must be equipped with beds.<sup>257</sup> Segregated detainees shall have the opportunity to maintain a normal level of personal hygiene.<sup>258</sup> Recreation shall be provided to detainees in segregation in accordance with the "Recreation" standard.<sup>259</sup> Access to the law library shall generally be granted to detainees in segregation.<sup>260</sup> Detainees generally retain visiting privileges while in disciplinary segregation, and may not be denied legal visitation.<sup>261</sup>

Detainees in administrative segregation generally have the same telephone privileges as other detainees,<sup>262</sup> while detainees in disciplinary segregation shall be restricted to telephone calls for calls relating to the detainee's immigration case or other legal matters, calls to consular/embassy officials, and family emergencies.<sup>263</sup> Detainees in segregation shall have the same correspondence privileges as detainees in the general population.<sup>264</sup>

**MCCI partially meets this section of the Standards; however, detainees in segregation only have telephone access for one hour per day.** There are beds in the SMU, and detainees continue to have access to correspondence, personal hygiene implements, the law library and legal and personal visitation.<sup>265</sup> Further, they are permitted one hour of outdoor recreation daily.<sup>266</sup> As detailed above, detainees' telephone access is restricted to one hour per day, including legal calls.<sup>267</sup> Calls are ended by an automatic cut-off.<sup>268</sup> The Standards require greater access to legal calls.<sup>269</sup>

<sup>256</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.A.

<sup>257</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.2, and Standard 14, Section III.D.6.

<sup>258</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.11.

<sup>259</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.8, and Standard 14, Section III.D.13.

<sup>260</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.18, and Standard 14, Section III.D.15.e.

<sup>261</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.13 & 14, and Standard 14, Section III.D.17.

<sup>262</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.16.

<sup>263</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.19.

<sup>264</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.20, and Standard 14, Section III.D.18.

<sup>265</sup> Notes of delegation member [REDACTED] on conversation with I [REDACTED]

<sup>266</sup> Notes of delegation member [REDACTED] on conversation with I [REDACTED]

<sup>267</sup> Notes of delegation member [REDACTED] on conversation with Sgt. [REDACTED]

<sup>268</sup> Notes of delegation member [REDACTED] on conversation with Sgt. [REDACTED]

<sup>269</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

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<sup>256</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.A.

<sup>257</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.2, and Standard 14, Section III.D.6.

<sup>258</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.11.

<sup>259</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.8, and Standard 14, Section III.D.13.

<sup>260</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.18, and Standard 14, Section III.D.15.e.

<sup>261</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.13 & 14, and Standard 14, Section III.D.17.

<sup>262</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.16.

<sup>263</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.19.

<sup>264</sup> Detention Operations Manual, Security and Control, Standard 13, Section III.D.20, and Standard 14, Section III.D.18.

<sup>265</sup> Notes of delegation member [REDACTED] on conversation with I [REDACTED]

<sup>266</sup> Notes of delegation member [REDACTED] on conversation with I [REDACTED]

<sup>267</sup> Notes of delegation member [REDACTED] on conversation with Sgt. [REDACTED]

<sup>268</sup> Notes of delegation member [REDACTED] on conversation with Sgt. [REDACTED]

<sup>269</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

K. Staff-Detainee Communication/ICE Presence at the Facility

The Standards require that procedures be in place “to allow for formal and informal contact between key facility 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>270</sup> The Standards require that detainees have the opportunity to have informal access to and interaction with key facility staff members on a regular basis.<sup>271</sup> The Standards require both scheduled weekly visits and “regular unannounced visits” by ICE officials.<sup>272</sup> The purpose of such visits is to monitor housing conditions, interview detainees, review records, and answer questions for detainees who do not comprehend the immigration removal process.<sup>273</sup> The Standards also require that detainees have the opportunity to submit written questions, requests, or concerns to ICE staff using a detainee request form, local IGSA form, or a sheet of paper.<sup>274</sup> Finally, the detainee handbook shall state that the detainee has the opportunity to submit written questions, requests, or concerns to ICE staff and procedures for doing so.<sup>275</sup>

**MCCI does not fully meet this section of the Standards; there is no process in place for submitting written questions, requests or concerns, and the Inmate Handbook does not state that detainees may submit questions or concerns to ICE staff.** An ICE officer makes weekly scheduled and unannounced visits to the facility. Officer (b)(6), (b)(7)c visits the facility every Monday unless Monday is a national holiday, in which case he visits on Tuesday.<sup>276</sup> He also visits the facility at least one more time each week at an unscheduled time.<sup>277</sup> Additionally, a different ICE officer visits the facility once a week.<sup>278</sup> The schedule of these visits was posted in each housing unit.<sup>279</sup> While Officer (b)(6), (b)(7)c did suggest that he might put up a “comment box,” he said that when detainees had issues they came directly to him or to another officer and did not use any sort of formal system.<sup>280</sup> In addition, the detainee handbook does not state that detainees have the opportunity to submit written questions, requests or concerns to ICE staff or the procedures for doing so.

L. Religious Practices

The 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>281</sup>

<sup>270</sup> Detention Operations Manual, Detainee Services, Standard 15, Section I.

<sup>271</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

<sup>272</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

<sup>273</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

<sup>274</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

<sup>275</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

<sup>276</sup> Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c

<sup>277</sup> Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c

<sup>278</sup> Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c

<sup>279</sup> Observations of delegation member Vera Gerrity.

<sup>280</sup> Notes of delegation member Vera Gerrity, on conversation with Officer (b)(6), (b)(7)c

<sup>281</sup> Detention Operations Manual, Detainee Services, Standard 14, Section I.

According to the Standards, these “opportunities will exist for all equally, regardless of the number of practitioners of a given religion, whether the religion is ‘mainstream,’ whether the religion is ‘Western’ or ‘Eastern,’ or other such factors. Opportunities will be constrained only by concerns about safety, security, the orderly operation of the facility, or extraordinary costs associated with a specific practice.”<sup>282</sup> Moreover, a facility’s staff shall make “all reasonable efforts to accommodate” special food services required by a detainee’s particular religion.<sup>283</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>284</sup>

**MCCI meets this section of the Standards.** All detainees are handed a questionnaire upon arriving at the facility that inquires about their religious preferences.<sup>285</sup> When asked if the delegation may see a copy of that questionnaire, Lt. (b)(6), (b)(7)c said that he would see what he could do, but ultimately never produced one.<sup>286</sup> MCCI provides Christian, Jewish, and Muslim services and provides Christian services in both English and Spanish.<sup>287</sup> The kitchen accommodates both kosher and halal diets, and those who miss a meal time for religious fasting purposes such as Yom Kippur or Ramadan are able to have that meal at a later time, when their faith allows for it.<sup>288</sup> MCCI has a chaplain on staff who also serves as a coordinator for bringing in rabbis or imams to officiate services for other faiths.<sup>289</sup> Detainees in regular housing units as well as SMUs are permitted to keep religious items such as prayer beads, religious texts and skullcaps in their cells.<sup>290</sup> A detainee who may not be able to attend general religious services for disciplinary segregation reasons has the option of requesting a private service.<sup>291</sup> When asked if a detainee who has a less ‘mainstream’ religious preference would be accommodated, Lt. (b)(6), (b)(7)c responded that unless it was “something nobody’s ever heard of,” MCCI would do its best to provide accommodations.<sup>292</sup> The Handbook specifically states that “personal interviews with leaders of a recognized religious group can be arranged by submitting a writing request to a social worker.”<sup>293</sup> The Handbook fails to specify how MCCI defines a “recognized religious group.”

### M. Voluntary Work Program

<sup>282</sup> Detention Operations Manual, Detainee Services, Standard 14, Section I.

<sup>283</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

<sup>284</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.O.

<sup>285</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>286</sup> Observations of delegation member (b)(6)

<sup>287</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>288</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>289</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>290</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>291</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>292</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>293</sup> MCCI Inmate Handbook, p. 15.

The Standards suggest that all facilities with work programs provide an opportunity for physically and mentally capable detainees to “work and earn money.”<sup>294</sup> Participation must be voluntary, and detainees may not work more than eight hours per day, and forty hours per week.<sup>295</sup>

**MCCI does not fully meet this section of the Standards: there are very few opportunities to work in the facility should a detainee choose to do so.**<sup>296</sup> Detainees are provided the opportunity to work as one of the few “housemen” in his or her pod.<sup>297</sup> The detainees that work as “housemen” are selected on the basis of detainee requests, length of stay, and disposition.<sup>298</sup> Housemen are compensated for their work, and generally work around six hours per day.<sup>299</sup> Unlike county inmates, detainees are not permitted to work in the kitchen.<sup>300</sup>

#### N. Detainee Transfer

The Standards require that indigent detainees be permitted to make a single domestic telephone call at government expense upon arrival at their final destination; non-indigent detainees will be permitted to make telephone calls at their own expense.<sup>301</sup> Records including the detainee’s Alien File (“A-file”) and health records (or transfer summary for IGSAs) must accompany the detainee.<sup>302</sup> Prior to transfer, medical personnel must provide the transporting officers with instructions and any applicable medications for the detainee’s care; medications must be turned over to an officer at the receiving field office.<sup>303</sup> A detainee’s legal materials, cash, and small valuables shall always accompany the detainee to the receiving facility; larger items may be shipped.<sup>304</sup>

**MCCI appears to meet this Standard.** Indigent detainees are able to make a free call upon arrival when they are transferred to another facility.<sup>305</sup> Detainee records and personal property are transferred to the receiving institution, and detainees are informed of their impending transfer shortly beforehand, although transportation details are not shared with the

<sup>294</sup> Detention Operations Manual, Detainee Services, Voluntary Work Program, Sections I & III.A.

<sup>295</sup> Detention Operations Manual, Detainee Services, Voluntary Work Program, Sections I & III.A.

<sup>296</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>297</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>298</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Lt. [REDACTED] (b)(6), (b)(7)c

<sup>299</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>300</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>301</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.G.

<sup>302</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.D.1 and III.D.6.

<sup>303</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Section III.D.D [sic].

<sup>304</sup> Detention Operations Manual, Detainee Security and Control, Standard 4, Sections III.E.

<sup>305</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Officer [REDACTED] (b)(6), (b)(7)c

detainee prior to the date of transport.<sup>306</sup> Meals are provided to the detainees if transfer takes place over meal times.<sup>307</sup>

## V. CONCLUSION

The Monmouth County Correctional Institute meets the requirements of several of the ICE Detention Standards but fails to meet a number of important sections.

To provide adequate telephone access to detainees, MCCI must ensure that detainees can place free, direct calls to pro bono legal service providers other than just the Legal Aid Society. MCCI should not record or monitor, in any matter whatsoever, legal phone calls (absent a court order), and if regular phone calls are monitored, MCCI should provide detainees with the procedure for obtaining an unmonitored call for legal purposes, in a private area. MCCI should not limit telephone calls to attorneys made by detainees in a Special Management Unit to one hour. MCCI should accept incoming calls for detainees and take messages of those calls for detainees. Further, a posting near detainee telephones should provide a list, in Spanish, of free pre-programmed numbers to all consulates, as well as relevant courts, immigration offices, and all free legal service providers on the ICE-approved list. Reflecting the needs of the multinational immigrant jail population, instructions regarding the use of the phone system need to be in different languages.

To support the detainees' access to legal materials and legal representation, MCCI should provide access to all of the legal materials listed in the Standards in the law library. MCCI should also provide notice to detainees in the detainee handbook of the rules and procedures governing access to legal materials in the facility.

To provide adequate privacy to detainees, MCCI officials should not open detainee mail outside of the presence of its addressee. Further, MCCI officials should provide writing implements to detainees free of charge so that detainees may freely draft correspondence.

ICE should require that the MCCI Inmate Handbook be updated to inform detainees of their right to protection from abuse, harassment, and discrimination.

To facilitate open lines of communication between detainees and ICE officials, MCCI and ICE should create a process by which detainees can submit written questions, requests and/or concerns to ICE offices and officials. Also, the handbook should inform detainees regarding communication with ICE staff.

Finally, MCCI should provide more opportunities for detainees to work and earn money during the time of their detention.

<sup>306</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED]

<sup>307</sup> Notes of delegation member [REDACTED] on conversation with Officer [REDACTED]

Facility Name: **MONMOUTH COUNTY CORRECTIONAL INSTITUTE, FREEHOLD, NJ**

Date of Tour: **August 1, 2007**

Tour Participants: Latham & Watkins LLP attorneys and summer associates

*\*Standards are Detainee Services Standards unless otherwise indicated. Standards excerpts are typed verbatim. Issues are generally listed in their order from the Report. Report comments in bold are priority issues for ICE-ABA discussion.*

	ICE Standard*	Delegation Report	Source	ICE Response
1.	<p>Standard 16, Telephone Access</p> <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 [ICE]-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 detainee housing unit has a list of pre-programmed telephone codes for placing direct, free calls to local consulates, immigration courts and the Legal Aid Society. <b>However, although the numbers for local legal service providers other than the Legal Aid Society are posted, they do not have a pre-programmed telephone code and thus detainees are required to call collect or use a pre-paid calling card. (p.6 ¶2)</b></li> </ul>	Officer [REDACTED]	
2.	<p>Standard 16, Telephone Access</p> <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. The detainee shall be permitted to return the emergency call as soon as reasonably possible within the constraints of security and safety.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Incoming phone calls and messages are generally not accepted, with the exception of emergency telephone calls or in other limited circumstances determined at the facility's discretion. (p.7 ¶4)</b></li> <li>▪ <b>The facility generally does not accept incoming phone calls and messages from attorneys. (p.7 ¶4)</b></li> </ul>	Sgt. [REDACTED] Sgt. [REDACTED]	
3.	<p>Standard 16, Telephone Access</p> <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. Facility staff shall not electronically monitor detainee telephone calls on their legal matters, absent a court order.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>The phones where detainees make outgoing calls are all located in the public dayrooms with no privacy safeguards. There are no opportunities at MCCI for detainees to have private phone calls with attorneys. (p.7 ¶¶1, 2)</b></li> <li>▪ <b>All phone conversations made on the outgoing phones are automatically recorded by the facility. (p.7 ¶1)</b></li> </ul>	Delegation observations. Sgt. [REDACTED]	

4.	<p>Standard 16, Telephone Access</p> <ul style="list-style-type: none"> <li>▪ III.G. Staff shall permit detainees in the Special Management Unit for disciplinary reasons to make direct and/or free calls ... except under compelling security conditions. These conditions shall be documented.... Staff shall permit detainees in Special Management Unit for other than disciplinary reasons...to have telephone access similar to detainees in the general population ....</li> </ul> <p>Security and Control Standard 14 (Disciplinary Segregation)</p> <ul style="list-style-type: none"> <li>▪ III.D.19. [D]etainees in disciplinary segregation shall be restricted to telephone calls for the following purposes: a. calls relating to the detainee's immigration case or other legal matters ...; b. calls to consular/embassy officials; and c. family emergencies ....</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Detainees in the SMU for disciplinary reasons may use a cordless telephone handset, but only for one hour per day, even in the absence of compelling security conditions. (p.8 ¶3)</b></li> </ul>	Sgt. [REDACTED]	
5.	<p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> <li>▪ III.B. Equipment. The law library shall provide an adequate number of typewriters and/or computers, writing implements, paper and office supplies to enable detainees to prepare documents for legal proceedings.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Only one computer is available in the library for use by all 1,296 detainees and inmates. Three additional computers are designated for "library personnel use," although inmates were using one of those computers during the delegation's visit. (p.11 ¶2)</b></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>▪ <b>None of the following Attachment A materials are available in the MCCI law library: <i>United States Code, Title 8, Aliens and Nationality; Code of Federal Regulations, Title 8, Aliens and Nationality; Bender's Immigration and Nationality Act Service; Bender's INS Regulation Service; Administrative Decisions Under Immigration and Nationality Laws; Immigration Law and Defense; Immigration Law and Crimes; Guide for Immigration Advocates; Country Reports on Human Practices; Human Rights Watch – World Report; UNHCR Handbook on Procedures and Criteria for Determining Refugee Status; Considerations for Asylum Officers Adjudicating Asylum Claims for Women; Immigration and Naturalization Service Basic Law Manual; Lawyer's Committee Handbook on Representing Asylum Applicants; Federal Civil Judicial Procedures and Rules; Legal Research in a Nutshell; Legal Research &amp; Writing: Some Starting Points; Spanish-English Law Dictionary; Directory of Nonprofit Agencies that Assist Persons in Immigration Matters and telephone books. (p.9 ¶5)</i></b></li> </ul>	Delegation observations.	
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7.	<p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> <li>▪ III.G. The facility shall...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. Detainees may not be forced to forgo their minimal recreation time, as provided in "Detainee Recreation," standard to use the law library.</li> <li>▪ III.M. Detainees housed in ... Segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations.</li> </ul> <p>Security and Control Standard 14, Special Management Unit (Disciplinary Segregation)</p> <ul style="list-style-type: none"> <li>▪ III.D.15. When developing the schedule for law library-access, the OIC will set aside blocks of time for the detainees in disciplinary segregation. ... The facility may choose to provide segregated detainees upon-request access only. Violent and/or uncooperative detainees may be temporarily denied access to the law library ....</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Detainees may use the law library for only three hours and twenty minutes per week. (p.9 ¶1)</b> However, occasionally, detainees may return to the law library outside of their normally scheduled hours. (p.9 ¶1)</li> <li>▪ <b>Detainees who are in disciplinary detention also have access to the law library for only three hours and twenty minutes per week. (p.9 ¶1)</b></li> </ul>	<p>Law Library Schedule: Sgt. [REDACTED]</p> <p>Law Library Schedule.</p>	
8.	<p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> <li>▪ III.Q. The detainee handbook ... shall provide detainees with the rules and procedures governing access to legal materials, including ... 1. that a law library is available for detainee use; ... 3. the procedure for requesting access to the law library; ....</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>The Inmate Handbook does not specify the rules and procedures for utilizing the law library or for obtaining legal materials.</b> The Handbook only says that law books are available in the law library and that detainees are allowed to use the law library. (p.12 ¶4)</li> </ul>	<p>Inmate Handbook.</p>	
9.	<p>Standard 9, Group Presentations on Legal Rights</p> <ul style="list-style-type: none"> <li>▪ III.I. Videotaped presentations. The facility shall play [ICE]-approved videotaped presentations on legal rights, at the request of outside organizations. ... The facility shall provide regular opportunities for detainees in the general population to view the videotape.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>There is no legal rights video shown at the facility on a regular basis. (p.13 ¶1)</b></li> </ul>	<p>Sgt. [REDACTED]</p>	

10.	<p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> <li>▪ III.B. The facility shall notify detainees of its policy in correspondence and other mail through the detainee handbook or equivalent ... [and] shall specify: 1. That a detainee may receive mail, ... and instructions on how envelopes should be addressed; ... 4. That [incoming] special correspondence may only be opened in the detainee's presence, and may be inspected for contraband, but not read; ... 5. The definition of special correspondence, including instructions on the proper labeling for special correspondence, without which it will not be treated as special mail. ... 7. A description of mail which may be rejected by the facility ....</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Inmate Handbook does not contain the following information: 1) the definition of special correspondence, and instructions on the proper labeling for special correspondence, and a statement that it is the detainee's responsibility to inform senders of special mail of the labeling requirement; 2) information that identity documents are contraband and may be rejected by the facility; 3) instructions on how incoming mail should be addressed; or 4) notifications that general and special correspondence shall be opened and inspected in the detainee's presence. (p.14 ¶1)</li> </ul>	Inmate Handbook.	
11.	<p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> <li>▪ III.B.3. [G]eneral correspondence ... shall be opened and inspected in the detainee's presence, unless the OIC authorizes inspection with out the detainee's presence for security reasons.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The facility opens and inspects <u>all</u> general correspondence for contraband outside of the receiving detainee's presence (apparently per a New Jersey state law passed after 9/11). (p.14 ¶2)</li> </ul>	Lt.	(b) (6), (b) (7)(c)
12.	<p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> <li>▪ III.I. Postage Allowance. Indigent detainees will be permitted to mail a reasonable amount of mail each week, including at least five pieces of special correspondence and three pieces of general correspondence.</li> <li>▪ III.J. The facility shall provide writing paper, writing implements, and envelopes at no cost to detainees.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Only indigent detainees are provided writing materials at no charge. All non-indigent detainees must pay for writing materials and envelopes themselves by purchasing them through the Commissary.</b> (p.14 ¶3)</li> </ul>	Lt.	

13.	<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. The handbook will also describe the services, programs, and opportunities available .... Every detainee will receive a copy of this handbook upon admission to the facility.</li> </ul> <p>Security and Control Standard 5, Disciplinary Policy</p> <ul style="list-style-type: none"> <li>▪ III.A.5. The detainee handbook or equivalent ... shall advise detainees of the following: a. the right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment; b. the right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs; ....</li> </ul>	<ul style="list-style-type: none"> <li>▪ Officials indicated that all detainees receive an Inmate Handbook. However, <b>one detainee indicated that she did not receive the Handbook when she arrived at the facility. (p.15 ¶2)</b></li> <li>▪ <b>The handbook does not advise detainees of their right to protection from abuse and harassment or right to freedom from discrimination. (p.15 ¶2; p.23 ¶3)</b></li> </ul>	<p>(b)(6), (b)(7)(c)</p> <p>Inmate Handbook.</p>	
14.	<p>[Detainee Handbook, continued]</p> <p>Standard 15, Staff-Detainee Communication</p> <ul style="list-style-type: none"> <li>▪ III.B.3. Detainee Handbook. ... The handbook shall state that the detainee has the opportunity to submit written questions, requests, or concerns to ICE staff and the procedures for doing so ....</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>The detainee handbook does not state that detainees have the opportunity to submit written questions, requests or concerns to ICE staff or the procedures for doing so. (p.26 ¶1)</b></li> </ul>	<p>Inmate Handbook.</p>	
15.	<p>Standard 4, Detainee Classification System</p> <ul style="list-style-type: none"> <li>▪ III.E. All facilities shall ensure that detainees are housed according to their classification level.</li> <li>▪ III.F. The classification system shall assign detainees to the least restrictive housing unit consistent with facility safety and security.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Male detainees are not housed based on classification, but instead are all housed together in separate units from the inmates. Female detainees are housed with female inmates based on classification. (p.19 ¶3)</li> </ul>	<p>Officer</p> <p>(b)(6), (b)(7)(c)</p>	
16.	<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>▪ <b>Officer (b)(6) said that when detainees have issues [for ICE] they come to him or another officer directly; there is no formal system for written requests. (p.25 ¶2).</b></li> </ul>	<p>Officer</p>	