

Detention Standards Implementation Initiative

ABA Commission on Immigration

Facility Name: Montgomery County Correctional Facility, Norristown, PA

Date of Tour: July 21, 2004

Tour participants: [REDACTED] Latham & Watkins LLP)

ICE Standard	Tour Observation	Source of Observation	ICE Response
<p>Visitation</p> <ul style="list-style-type: none"> III.1.2 "On regular business days, legal visitation may proceed through a scheduled meal period" and III.1.9 "Routine official counts shall not terminate attorney visits" 	<ul style="list-style-type: none"> Legal visits may not continue through meals or facility counts (P6, line 14) 	<ul style="list-style-type: none"> As stated in the facility's "Inmate Guidelines" page 15, Section 10.G 	<p>The 2004 report only indicates that visitation is not covered in the detainee handbook.</p>
<p>Access to Legal Material</p> <ul style="list-style-type: none"> III.N "The facility will provide indigent detainees with free envelopes and stamps for mail related to a legal matter" 	<ul style="list-style-type: none"> Indigent detainees may not be receiving free stamps and envelopes for legal correspondence (P20, line 10) 	<ul style="list-style-type: none"> Notes from detainee interview 	<p>The 2004 report indicates that the law library does not contain all materials listed in Attachment A of the "Access to Legal Materials."</p>
<ul style="list-style-type: none"> III.I "The facility shall provide regular opportunities for detainees in the regular population to view the [Know Your Rights] videotape" 	<ul style="list-style-type: none"> Officials do not air the "Know Your Rights" video – while they stated to the delegation that the video is available upon request, it is unclear how detainees are made aware of the existence of the video (P21, line 3) 	<ul style="list-style-type: none"> Delegation notes according to conversations with facility staff and a detainee interview 	<p>Not indicated in 2004 review.</p>
<p>Staff-Detainee Communication</p> <ul style="list-style-type: none"> III.A.2.b "The ICE FOD shall devise a written schedule and procedure for weekly detainee visits" 	<ul style="list-style-type: none"> SDDO [REDACTED] stated that there is not a weekly ICE presence at the facility (P34, line 9) and has no plans to have ICE officers visit the facility weekly (p35, line 1) 	<ul style="list-style-type: none"> Statements made by SDDO [REDACTED] 	<p>Not indicated in 2004 review.</p>
<ul style="list-style-type: none"> III.B.1.b "The detainee requests...shall be answered...but not later than within 72 hours from receiving the request" 	<ul style="list-style-type: none"> The detainee interviewed by the delegation has not been seen by an ICE officer for 3 months as of the time of the delegation, despite his requests (P34, line 17) 	<ul style="list-style-type: none"> Detainee interview notes 	<p>Not indicated in 2004 review.</p>

MEMORANDUM
August 16, 2004

To: (b)(6) Acting Director, Office of Detention and Removal, Immigration and Customs Enforcement

From: American Bar Association Delegation to the Montgomery County Correctional Facility¹

Copies to: Andrea Siemens, ABA Commission on Immigration

Subject: Report on Observational Visit to the Montgomery County Correctional Facility, Norristown, Pennsylvania

This memorandum summarizes and evaluates information gathered at the Montgomery County Correctional Facility ("MCCF") in Norristown, Pennsylvania, during our delegation's July 21, 2004 observational visit. The information was gathered through the delegation's observations, interviews with Immigration and Customs Enforcement ("ICE") and MCCF personnel, an interview with a detainee and review of *MCCF's Inmate Guidelines* (the "Inmate Guidelines").

I. INTRODUCTION

A. The Delegation's July 21st Visit

On July 21, 2004, the members of our delegation met MCCF and ICE officials and spent approximately 3½ hours on-site at the MCCF making observations and conducting a detainee interview. The MCCF officials that we toured the facility with were Captain (b)(6), (b)(7)c (b)(6), (b)(7)c and caseworker (b)(6). The ICE official who was present during our visit was Supervisory Detention and Deportation Officer (b)(6), (b)(7)c from the Berks County, Pennsylvania ICE office in Leesport, Pennsylvania. The detainee we interviewed was Hugh Byfield, a Jamaican, who had been at the facility for three years.² The delegation appreciates the cooperation of these individuals. They were direct and accommodating during

¹ The delegation was comprised of Latham & Watkins LLP's New York City-based attorneys (b)(6), (b)(6) and Latham & Watkins LLP summer interns (b)(6) (University of Illinois College of Law), (b)(6) (Columbia University Law School) and (b)(6) (Northwestern University School of Law).

² Notes of delegation member (b)(6)

our tour of the facility and in answering our questions and promptly furnished us with all of the information and materials we requested.

Subsequent to our tour of the facility, delegation member (b)(6) conducted a telephone interview with SDDC (b)(6), (b)(7). During that conversation, SDDO (b)(6), (b)(7) reported progress in several areas. We have included SDDC (b)(6), (b)(7) comments where applicable, but note that we are unable to verify that these measures are indeed in place. For this reason, it may be advisable to send another delegation to the facility sooner than is the general practice in order to observe the implementation of these new measures.

B. General Information About the Montgomery County Jail Facility

The MCCF houses immigration detainees through an intergovernmental service agreement (“IGSA”) with ICE. According to MCCF personnel, the facility currently holds approximately 1450 inmates and detainees, approximately 140 of which are women.³ At the time of our visit, the MCCF contained 15 ICE detainees (none of the ICE detainees are women), down from what we were told was a highpoint of up to 90 detainees in recent years.⁴ All of the ICE detainees at the MCCF have criminal records.⁵ Although we were not given a specific breakdown of the countries of origin of the detainees, we were told that Latin Americans and people from the Caribbean are in the majority, with the rest coming from Asia, Africa and the Middle East.⁶ The detainee we interviewed, who is Jamaican, confirmed that most detainees are from Latin America and the Caribbean.⁷ The majority of the detainees were previously incarcerated in New York State before being transferred to the MCCF.⁸ The MCCF receives approximately \$55.00 per day from ICE for each detainee housed at the facility.⁹

³ Notes of delegation member (b)(6)

⁴ Notes of delegation member (b)(6)

⁵ Notes of delegation member (b)(6)

⁶ Notes of delegation member (b)(6)

⁷ Notes of delegation member (b)(6) from interview with detainee (b)(6)

⁸ Notes of delegation member (b)(6) and (b)(6)

⁹ Notes of delegation member (b)(6) from telephone interview SDDC (b)(6), (b)(7)

Detainees are given the *Inmate Guidelines* upon arrival, which outline the procedures of the facility and a copy of which we attach as Exhibit A hereto.¹⁰ Obtaining the *Inmate Guidelines* was not reported to be a problem for detainees.¹¹ The *Inmate Guidelines* are not available in foreign languages, which presents a problem for non-English speakers, especially considering the *ad hoc* nature of the foreign translation services available.¹² Further, the *Inmate Guidelines* are applicable to the general inmate population and it is unclear which procedures in the *Inmate Guidelines* apply to detainees and which do not; this limits the *Inmate Guidelines*' usefulness to ICE detainees.

Overall, our delegation found the MCCF to be a well run facility. The staff was courteous, the facility was clean and the overall impression was one of order.

II. IMPLEMENTATION OF THE LEGAL ACCESS STANDARDS

A. Visitation

1. General

The *Detention Standards* provide that facilities holding ICE detainees shall allow authorized persons, including family, friends, current or prospective legal representatives and legal assistants, and consular officials to visit the detainees.¹³ The facilities shall also allow representatives of the news media, non-governmental organizations, and community service organizations to access non-classified and non-confidential information, tour the facility with advance notice, and interview individual detainees with permission from ICE and the detainees.¹⁴ To that end, the *Detention Standards* set forth several general guidelines that govern different types of visitations. All facilities shall adhere to these general guidelines.

The MCCF, to a large extent, applies the general-population visitation procedures to the ICE detainee population, without modifications to accommodate the special needs and

¹⁰ The MCCF Guidelines we obtained were most recently revised in March 2003.

¹¹ Notes of delegation members (b)(6) from interview with detainee (b)(6).

¹² Detainee (b)(6) reported to the delegation that the non-English speaking detainees receive their translations of written documents from other detainees. This method that is problematic because it is not monitored for quality and translation services may be offered or withheld on an *ad hoc* basis. Notes of delegation members (b)(6).

¹³ Detention Operations Manual, Detainee Services, Standard 16, Section I.

¹⁴ Detention Operations Manual, Detainee Services, Standard 16, Section I.

rights of the ICE detainees. **As a result, the MCCF has adhered to some of the *Detention Standards*, but not others.**

a. Notification

According to the *Detention Standards*, facilities shall provide written notification of visitation rules and hours in the detainee handbooks, or equivalent, given to the detainees upon admission.¹⁵ Moreover, the facilities shall post the procedures where the detainees can easily see them.¹⁶

The MCCF has implemented the notification requirements for family and friend visitations but has failed to satisfy these requirements for other visitations. The MCCF provides every detainee with a booklet titled *Inmate Guidelines* upon admission, which provides details or notifications of the rules and hours for family and friend visitations.¹⁷ The MCCF also posts family and friend visitation schedules on the bulletin boards in the housing units, referred to by MCCF personnel as “pods.”¹⁸ However, other than the legal visitation hours, the MCCF does not provide the detainees with any written rules for the legal, consular, news media, social service organization, or non-governmental organization visitations.¹⁹ For instance, the delegation did not find any written procedures for consular visitations. Although the MCCF provides phone access with direct dial capability to various embassies and consulates free of charge, it is unclear whether the ICE detainees are aware of their right to contact and receive visits from their consular officials, as it is not written in the *Inmate Guidelines* or in any other forms.²⁰

Additionally, according to the *Detention Standards*, the facilities shall make the schedule and procedures available to the public both in writing and via telephone.²¹ **The MCCF has only partially satisfied this part of the *Detention Standards*.** The MCCF has posted the

¹⁵ Detention Operations Manual, Detainee Services, Standard 16, Section III.B.

¹⁶ Detention Operations Manual, Detainee Services, Standard 16, Section III.B.

¹⁷ Observations of delegation members

(b)(6)

¹⁸ Observations of delegation members

¹⁹ The delegation requested from the MCCF all the documentations given to the detainees that contain rules of visitations. The only documentation that the MCCF identified was the *Inmate Guidelines*.

²⁰ Detention Operations Manual, Detainee Services, Standard 16, Section III.K.

²¹ Detention Operations Manual, Detainee Services, Standard 16, Section III.B.

schedules and rules on the walls of the visitors' waiting area.²² The MCCF has also made available its official *Visitor Guidelines* that specify the family and friend visitation rules, dress code, hours, and other regulations for distribution upon request.²³ According to MCCF personnel, however, the *Visitor Guidelines* can only be obtained in person on the site and not by telephone.²⁴ Moreover, the *Visitor Guidelines* only provide rules and hours for the family and friend visitations.²⁵

b. Visiting Room Conditions

The MCCF has adhered to the *Detention Standards* in ensuring that the visiting rooms have reasonable conditions. The *Detention Standards* require that a facility's visiting areas shall be appropriately furnished and arranged, and as comfortable as practicable.²⁶ The *Detention Standards* further require that the officer shall ensure that all visits are conducted quietly and in an orderly manner.²⁷ Each of the MCCF's visiting rooms can contain about 6-10 visits at the same time.²⁸ The delegation interviewed (b)(6) in the visiting room partially during visitation hours towards the end of the interview when visitors started to enter the room. It was noted by the delegation that the room became quite noisy when multiple visits were conducted concurrently.²⁹ However, overall, the room provides reasonable meeting areas for the detainee families, given the limitation of the MCCF's space and resources.

2. Visitation by Attorneys

The *Detention Standards* provide that facilities should allow detainees to meet privately with their current or prospective legal representatives and legal assistants.³⁰

²² Observations of delegation members (b)(6).

²³ The delegation requested from the MCCF all the documentations given to the public that contain rules of visitations. The only documentation that the MCCF identified was the Montgomery County Correctional Facility Visitor Guidelines ("Visitor Guidelines"), revised on April 4, 2003.

²⁴ Notes of delegation members (b)(6).

²⁵ Visitor Guidelines.

²⁶ Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

²⁷ Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

²⁸ Observations of delegation members (b)(6).

²⁹ Notes of delegation members (b)(6).

³⁰ Detention Operations Manual, Detainee Services, Standard 16, Section I.

The MCCF has only partially implemented this section of the *Detention Standards*. As required by the *Detention Standards*, to visit a detainee at the MCCF, an attorney must have and present a bar card.³¹ Also, according to the MCCF personnel, it is acceptable for an attorney to present other forms of identification.³² The attorney may visit a client without prior notice to the facility.³³ According to the MCCF personnel, legal assistants, interpreters, and law students are also allowed to visit detainees as long as they seek pre-approval from the facility.³⁴

Each MCCF visiting room contains two attorney visitation sections,³⁵ allowing two attorney visits to occur simultaneously. All attorney visitations are contact visits.³⁶ There are no Plexiglas dividers separating the detainees from their attorneys.³⁷ The attorney visitation sections are enclosed with transparent material, through which the officers can observe but not hear.³⁸

According to the *Inmate Guidelines*, attorneys are not restricted to the normal hours of visitation, satisfying the requirement of the *Detention Standards*.³⁹ Attorneys and legal assistants are allowed to visit ICE detainees seven days a week, including holidays.⁴⁰ However, the *Inmate Guidelines* state that visitors are only allowed to visit during certain 1.5-to-2.5-hour time blocks when the detainees are not locked up for regular counts and meals.⁴¹ The time slots add up to 10 hours, exceeding the minimum four hours per day standard set forth by the *Detention Standards*.⁴² However, this restriction appears to conflict with the *Detention Standards'* provisions that during regular business days, legal visitations may proceed through a scheduled meal period.⁴³ The *Detention Standards* further require that in such cases,

³¹ Detention Operations Manual, Detainee Services, Standard 16, Section III.1.4.

³² Notes of delegation members [REDACTED]

³³ Notes of delegation members [REDACTED] (b)(6)

³⁴ Notes of delegation members [REDACTED]

³⁵ Observation of delegation members [REDACTED]

³⁶ Observation of delegation members [REDACTED] (b)(6)

³⁷ Observation of delegation members [REDACTED]

³⁸ Notes of delegation members [REDACTED] (b)(6)

³⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III.1.2.

⁴⁰ Inmate Guidelines, p. 15, Section 10.G.

⁴¹ Inmate Guidelines, p. 15, Section 10.G.

⁴² Detention Operations Manual, Detainee Services, Standard 16, Section III.1.2.

⁴³ Detention Operations Manual, Detainee Services, Standard 16, Section III.1.2.

the detainee shall receive a tray or sack meal after the visit.⁴⁴ The *Detention Standards* specifically state that "routine official counts shall not terminate attorney visits."⁴⁵ MCCF's limiting of legal visitations to non-lock-up time blocks only is therefore inconsistent with and more restrictive than the Standards' provision cited above.

The *Detention Standards* require that the facility provide upon request written legal visitation rules, which should include at least the following information: the telephone inquiries, dress code, legal assistants, pre-representational meetings, Form G-28 requirements, identification and search of legal representatives, identification of visitors, materials provided to detainees by legal representatives, confidential group legal meetings; and detainee sign-up.⁴⁶ The MCCF does not provide any written legal visitation policy other than the hours specified in the *Inmate Guidelines*.

It is unclear whether the ICE detainees held at the MCCF are subject to strip searches after their legal visitations. The *Detention Standards* require that the facilities shall have written procedures governing detainee searches after legal visitations and that an IGSA facility's general-population search procedure will also apply to ICE detainees.⁴⁷ There are no specific rules in either the *Inmate Guidelines* or the *Visitors Guidelines* regarding detainee searches after legal visitations. However, the general detainee search rule under the *Inmate Guidelines* requires all inmates to be strip searched after all contact visits.⁴⁸ All legal visitations at MCCF are contact visits, so according to the *Inmate Guidelines*, all ICE detainees would be subject to strip searches following these visits. The MCCF personnel, however, contended that the ICE detainees are not subject to strip searches after legal visitations unless the visiting room officer has reason to suspect the existence of illegal contraband.⁴⁹

If all detainees are in fact subject to strip searches after all legal visitations because they are contact visits, and not based on any specific reason, the MCCF facility has

⁴⁴ Detention Operations Manual, Detainee Services, Standard 16, Section III.1.2.

⁴⁵ Detention Operations Manual, Detainee Services, Standard 16, Section III.1.9.

⁴⁶ Detention Operations Manual, Detainee Services, Standard 16, Section III.1.16.

⁴⁷ Detention Operations Manual, Detainee Services, Standard 16, Section III.1.11.

⁴⁸ Inmate Guidelines, p 10, Section 7.S.(2).

⁴⁹ Notes of delegation member [REDACTED] (b)(6)

failed to implement the relevant section of the *Detention Standards*, which states that if standard operating procedures require strip searches after every contact visit with a legal representative, the facility must provide an option for non-contact visits with legal representatives in an environment that allows confidentiality. In that case, the OIC will establish a mechanism for the detainee and his/her representative to exchange documents.⁵⁰

The MCCF facilities have no written procedures that provide an option for non-contact visits. The MCCF personnel clearly told the delegation that there are no alternatives if the detainees would prefer non-contact visitations.⁵¹

3. Visitation by Family and Friends

To maintain detainee morale and family relationships, the *Detention Standards* encourage visitation with family and friends.⁵² The facility must allow visitation by immediate family members, other relatives, friends, and associates.⁵³ The *Detention Standards* require that the facilities should accommodate the scheduling needs of visitors for whom weekends and holidays pose a hardship.⁵⁴ The *Detention Standards* recommend that the facilities accommodate these needs by allowing evening hours and special visits.⁵⁵ The *Detention Standards* require a minimum of 30 minutes per visitation, under normal conditions, and encourage more generous limits if possible.⁵⁶

The MCCF implements some parts of this section of the *Standards*, but not others. At the MCCF, the ICE detainees are given four hours of visitation every week.⁵⁷ The detainees can arrange the visitation during two time blocks totaling five hours spread between one weekday and one day on the weekend.⁵⁸ Each visitation can last up to 60 minutes,⁵⁹

⁵⁰ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.11.

⁵¹ Notes of delegation member: (b)(6)

⁵² Detention Operations Manual, Detainee Services, Standard 16, Section I.

⁵³ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.2.

⁵⁴ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.1.

⁵⁵ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.1.

⁵⁶ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.1.

⁵⁷ Visiting Hours, provided by the MCCF facility.

⁵⁸ Visiting Hours, provided by the MCCF during the delegation visit.

⁵⁹ Inmate Guidelines, p. 10, Section 7.R.

exceeding the 30-minute minimum required under the *Detention Standards*.⁶⁰ The detainees can have up to four concurrent visitors.⁶¹ Visitation with minors is accommodated.⁶²

The delegation is concerned that the MCCF has not provided the flexibility to accommodate family and friends to whom visiting during the scheduled hours imposes undue hardship. This is especially critical for the ICE detainees because their families usually need to travel greater distances to visit compared to Montgomery County inmates, who were arrested in Montgomery County and are therefore likely to be locals. In contrast, most detainees were transferred from New York State correctional facilities, their visitors are also likely to be coming from New York State. For example, detainee (b)(6) family members live in upstate New York and have to travel for hours before arriving at the MCCF. On at least one occasion, they arrived late and were denied the right to visit despite their long journey.⁶³ According to MCCF personnel, arrangements can be made if normal visiting schedules impose an undue hardship for out of state visitors.⁶⁴ It is unclear, however, what such arrangements consist of and whether immigration detainees know of such possibilities when they are not specifically mentioned in the *Inmate Guidelines*. While the *Inmate Guidelines* mention special exceptions for visitors who have traveled long distances and other unusual circumstances,⁶⁵ no mention was made for scheduling difficulties. Moreover, no details of any special arrangements were articulated.

In the alternative, the MCCF personnel told the delegation that the facility will relocate the detainee to another pod with a different visitation schedule.⁶⁶ It is not clear, however, whether the detainees are aware of such an option because it is not mentioned in the *Inmate Guidelines*. Moreover, this option works only if there are enough detainees to occupy at

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⁶⁰ Detention Operations Manual, Detainee Services, Standard 16, Section III.H.1.

⁶¹ Inmate Guidelines, p. 10, Section 7.R.(4).

⁶² Inmate Guidelines, p. 9, Section 7.B-D.

⁶³ Notes of delegation members (b)(6)

⁶⁴ Notes of delegation members (b)(6)

⁶⁵ Inmate Guidelines, p. 11, Section 7.W.

⁶⁶ Notes of delegation members (b)(6)

least two pods. This is not the case now.⁶⁷ Lastly, the problem still exists if the visiting hours in the new pod also impose undue hardship on the family and friends.

Finally, requiring that the ICE detainees keep a visitors' list may discourage visitation. The procedures of maintaining a visitor's list are complicated. Upon admission, the detainees are required to provide a list of eight individuals as potential visitors, subject to the Warden or his designee's approval.⁶⁸ Only persons on this list, with the exception of attorneys and clergy, may visit the detainee.⁶⁹ Detainees may request to review the visiting list by submitting a change request once every 30 days.⁷⁰ Changes and additions to the visiting list will be on Friday only.⁷¹ Changes to the visitor's list also take some time to go into effect.⁷² The detainee cannot remove a name until after the name has stayed on the list for more than one month.⁷³ These complicated and inefficient procedures may discourage visitations.

III. TELEPHONE ACCESS.

A. General Requirements

The *Detention Standards* require IGSA Facilities like the MCCF to provide detainees with reasonable and equitable access to telephones.⁷⁴ To meet the *Detention Standards'* requirements, a facility must provide at least one telephone for every 25 detainees and written access rules to each detainee.⁷⁵

The MCCF has fully implemented this section of the *Detention Standards*. Each pod, has three telephones. These three phones are shared by 35 detainees if the pod is at full capacity. Detainee (b)(6) however, expressed that one or more of the phones are often out of service.⁷⁶ Detainees may use the telephones for a total of two hours per day between 7:00 a.m. and 10:00 p.m. except during the times detainees are locked in their cells for meals or head

⁶⁷ Notes of delegation member (b)(6).
⁶⁸ Inmate Guidelines, p. 9. Section 7.A.
⁶⁹ Inmate Guidelines, p. 10. Section 7.Q.
⁷⁰ Inmate Guidelines, p. 10. Section 7.L.
⁷¹ Inmate Guidelines, p. 10. Section 7.N.
⁷² Notes of delegation member (b)(6).
⁷³ Inmate Guidelines, p. 10. Section 7.M.
⁷⁴ Detention Operations Manual, Detainee Services, Standard 15, Sections I & III.A.
⁷⁵ Detention Operations Manual, Detainee Services, Standard 15, Sections III.B & C.
⁷⁶ Notes of delegation member (b)(6).

counts.⁷⁷ Telephone access is considered a “privilege” and can be suspended for violation of rules and regulations, including abuse, damage, or tampering with telephones.⁷⁸

A list of available pro bono legal agencies are posted on the pod bulletin board.⁷⁹ Instructions for telephone use and access are contained in the *Inmate Guidelines*, but they are only given in English.⁸⁰ Therefore, written translations of the telephone access rules and procedures would enable all detainees, including non-English speakers to have meaningful access to the telephones.

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B. Direct vs. Collect Calls

The *Detention Standards* allow a facility to restrict telephone service to collect calls, provided that detainees are able to make free, direct calls through pre-programmed technology, or upon request, to consular offices, free legal service providers, local courts and government offices, and, in personal emergencies, to family members. To make a free call without pre-programmed technology, a detainee may ask a correction officer for assistance and access should be provided within eight waking hours.⁸¹

The delegation is concerned about the MCCF's implementation of this section of the *Detention Standards*. At the MCCF, detainees may make domestic collect calls through the pod telephones.⁸² MCCF Personnel⁸³ report that the service provider is Inmate Telephone, Inc., “ITT”, and the cost for a call is “competitive.”⁸⁴ Detainee (b)(6) reported that he has successfully called his Jamaican consulate office directly from a pod telephone using the access number he previously found listed on the pod bulletin board.⁸⁵ The delegation, however, did not find a list of consulate numbers posted in the pod during a recent visit to the facility.

⁷⁷ Notes of delegation members (b)(6)
⁷⁸ Inmate Guidelines, p. 6, Section 5 C. and p. 30, Section 36.
⁷⁹ Notes of delegation members (b)(6)
⁸⁰ Inmate Guidelines, pp. 6-8, Section 5a.; notes of delegation members (b)(6)
⁸¹ Detention Operations Manual, Detainee Services, Standard 15, Sections III.E.
⁸² Notes of delegation members (b)(6)
⁸³ Capital (b)(6), (b)(7)
⁸⁴ Notes of delegation members (b)(6)
⁸⁵ Notes of delegation members (b)(6)

Also, other direct calls to the ICE-approved list can only be made through a request to an officer or a caseworker. Caseworkers place the call for the detainees from their offices, but detainee (b)(6) reported that placing a non-local call is often up to the discretion of the caseworker and that both he and other detainees found it impossible to make interstate or international calls through the caseworkers.⁸⁶ The delegations observed a lack of a reliable, independent procedure for detainees, many of them relocated from out-of-state facilities, to make non-local and international calls. Implementation of a system for detainees to purchase pre-paid calling cards through the commissary would be helpful.

C. Privacy and Usage Restrictions for Legal Phone Calls

The *Detention Standards* require that detainee legal calls not be electronically monitored without a court order.⁸⁷ The facility must also ensure privacy for all detainees legal phone calls.⁸⁸ Furthermore, detainees should be able to discuss legal cases over the phone in an environment without interruption or cut-offs. In county jails with a time limit on phone calls, the time limit should not be less than 20 minutes.⁸⁹

The MCCF has not fully implemented this section of the *Detention Standards*. According to personnel⁹⁰ and the *Inmate Guidelines*, legal calls are not recorded or monitored. Each detainee is required to include and clearly mark their attorney on his permitted phone list so that MCCF can ensure that calls to that number are not monitored.⁹¹ Detainee (b)(6) however, pointed out that calls to attorneys are placed from phones where a sign states that calls may be monitored or recorded.⁹² Also, the notice does not outline the procedure for obtaining an unmonitored call for legal purposes. This may be a source of confusion for detainees and therefore may conflict with attorney-client relationships.

⁸⁶ Notes of delegation members (b)(6)

⁸⁷ Detention Operations Manual, Detainee Services, Standard 15, Sections III.I.

⁸⁸ Detention Operations Manual, Detainee Services, Standard 15, Sections III.I.

⁸⁹ Detention Operations Manual, Detainee Services, Standard 15, Sections III.F.

⁹⁰ Captain (b)(6), (b)(7)C

⁹¹ Inmate Guidelines, p. 8, Section 5a.(6)(L); notes of delegation members (b)(6)

⁹² Notes of delegation members (b)(6)

MCCF fails to meet the *Detention Standards* requirements for privacy for legal calls. Although each phone has privacy panels measuring approximately 18 inches, the phones are clustered in a common, open area.⁹³ It is very likely that phone calls can be overheard or interrupted by personnel and other detainees in the same pod. Noise in the common area may distract callers and limit conversations. The lack of privacy for legal phone calls at MCCF likely interferes with detainees' ability to address legal and personal issues with their legal counsel.

The procedures for legal phone calls, however, do not seem to pose an issue for unreasonable cut-offs. All calls placed terminate in thirty minutes.⁹⁴ Furthermore, up to 4 successive thirty-minute calls, a total of two hours, may be placed in one day.⁹⁵

D. Privacy and Usage Restrictions for Other Calls

Non-legal telephone calls may be restricted in number and duration for availability, orderly operation of the facility, and emergencies reasons.⁹⁶ The *Detention Standards* allow non-legal calls to be monitored as long as detainees are notified of this upon admission and a notice is placed next to each monitored phone. The notice must also provide the procedure for obtaining an unmonitored call for legal purposes.⁹⁷

The MCCF meets the requirements of this section of the *Detention Standards*. MCCF's limits on phone usage are permitted by the *Detention Standards*. MCCF restricts each detainee's outgoing collect calls to ten phone numbers, which each detainee chooses upon entering the facility. This 10-number limit for collect calls⁹⁸ and the duration limit to four thirty-minute calls,⁹⁹ seem to be reasonable and designed to ensure availability and regulate orderly operation of the facility. The only other interruptions to or restrictions on calls are the times when the detainees are locked down for head counts, meals, or to sleep¹⁰⁰ and in emergencies

⁹³ Notes of delegation members: [REDACTED] (b)(6)

⁹⁴ Inmate Guidelines, p. 8, Section 5b(1).

⁹⁵ Inmate Guidelines, p. 8, Section 5b(4).

⁹⁶ Detention Operations Manual, Detainee Services, Standard 15, Sections III.F.

⁹⁷ Detention Operations Manual, Detainee Services, Standard 15, Sections III.K.

⁹⁸ Inmate Guidelines, p. 6, Section 5a(3).

⁹⁹ Inmate Guidelines, p. 8, Section 5b(4).

¹⁰⁰ Notes of delegation member [REDACTED] (b)(6)

and/or when maximum security level is ordered.¹⁰¹ However, limited privacy at the housing unit phones, as discussed above, may unreasonably interrupt or restrict a detainee's phone calls.

E. Incoming Calls and Messages

The *Detention Standards* require facilities to take and deliver messages from incoming emergency and non-emergency legal telephone calls to detainees as promptly as possible. If the facility receives an emergency call for a detainee, the facility is required to permit the detainee to return the call as soon as reasonably possible. Indigent detainees must be allowed to make free return emergency calls.¹⁰²

The MCCF appears to have implemented this section of the *Detention Standards*. Personnel¹⁰³ report that messages are taken and promptly delivered to detainees for emergency and non-emergency legal calls once personnel have verified the call.¹⁰⁴ The *Inmate Guidelines* state a stricter procedure that detainees may not receive incoming messages unless specifically authorized by the warden, deputy warden, assistant wardens, major, captain, or director of social services.¹⁰⁵ Detainee (b)(5) however, reports that messages from attorneys and family emergencies are delivered promptly, confirming statements by personnel.¹⁰⁶ Detainees can return the calls by making a request to the guard of caseworker, or, if the call was placed from one of the ten numbers on the detainee's permitted phone list, detainees can return the call from the housing unit phones by making a collect call.¹⁰⁷ The delegation does not know if the facility allows indigent detainees to return these calls free of charge.

IV. ACCESS TO LEGAL MATERIALS

The *Detention Standards* require that detention facilities permit detainees sufficient access to a law library. Detainees are also to be provided with legal materials,

¹⁰¹ Inmate Guidelines, p. 6, Section 5.F.

¹⁰² Detention Operations Manual, Detainee Services, Standard 15, Sections III.I.

¹⁰³ Captain (b)(5) (b)(7)c

¹⁰⁴ Notes of delegation member (b)(6)

¹⁰⁵ Inmate Guidelines, p. 6, Section 5.G.

¹⁰⁶ Notes of delegation members

¹⁰⁷ Notes of delegation members (b)(6)

facilities, equipment, document copying privileges, and the opportunity to prepare legal documents.¹⁰⁸

The MCCF has implemented some aspects of this section of the *Detention Standards* but fails, on the whole, to provide ICE detainees with updated and meaningful access to legal materials.

A. Access to the Library

The *Detention Standards* state that a correctional facility ought to devise a flexible schedule to permit all detainees, regardless of housing or classification, to use the law library on a regular basis for a minimum of five hours a week.¹⁰⁹ The allocated library time should not cause a detainee to miss a meal, recreation time, or any other planned activity.¹¹⁰

The MCCF has implemented this section of the *Detention Standards*. The MCCF permits detainees to use the law library on Monday and Tuesday mornings from 8:00 A.M. to 10:30 A.M. for general population and intake sections.¹¹¹ Additional hours are available for the law library on Fridays from 8:00 A.M. to 10:30 A.M., 11:30 A.M. to 1:30 P.M.¹¹² According to MCCF personnel, the library times for ICE detainees are more flexible and access can be granted upon request.¹¹³ Recreational time will, however, have to be sacrificed in order to spend additional time in the law library.¹¹⁴

B. Library Conditions

The *Detention Standards* provide that each facility shall provide a law library in a designated room with sufficient space to facilitate detainees' legal research and writing. The

¹⁰⁸ Detention Operations Manual, Detainee Services, Standard 1, Section I.

¹⁰⁹ Detention Operation Manual, Detainee Services, Standard 1, Section III.G.

¹¹⁰ Detention Operation Manual, Detainee Services, Standard 1, Section III.G.

¹¹¹ Inmate Guidelines, p. 21, Section 18.

¹¹² Inmate Guidelines, p. 21, Section 18 C.

¹¹³ Notes of delegation member [REDACTED]

¹¹⁴ Notes of delegation member [REDACTED] (b)(6)

library shall contain a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas.¹¹⁵

The MCCF has partly implemented this section of the *Detention Standards*.

The MCCF library is sufficiently illuminated and isolated from high-traffic or noisy areas that might interfere with research and writing. Library, however, only provides four large tables for legal research and writing and cannot accommodate more than 20 inmates.¹¹⁶

C. Materials Identified in the *Detention Standards*

The *Detention Standards* require all law libraries to contain the materials listed in Attachment A to the chapter on *Access to Legal Material*.¹¹⁷ These materials must be updated regularly and information must be added on significant regulatory and statutory changes regarding detention and deportation of legal aliens in a timely manner.¹¹⁸ Damaged or stolen materials must be promptly replaced.¹¹⁹ The *Detention Standards* demand additionally that the facility post a list of holdings in the library and designate an employee with responsibility for updating materials, inspecting them weekly, and maintaining them in good working order.¹²⁰

The MCCF has not fully implemented this section of the *Detention Standards*.

The delegation's observation of the law library at the MCCF revealed that many required materials were outdated or entirely missing from the library. For example, the library only provided limited sources for immigration statutes and regulations, the very legal provisions that control the detention and removal of ICE detainees at MCCF. The immigration case law that is provided in hardcopy at the law library at MCCF is outdated and the library personnel at MCCF no longer update it.¹²¹ Although the law library at MCCF has online access to Westlaw and

Deleted:

¹¹⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

¹¹⁶ Notes of delegation member [REDACTED] (b)(6)

¹¹⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

¹¹⁸ Detention Operations Manual, Detainee Services, Standard 1, Section III.D. -F.

¹¹⁹ Detention Operations Manual, Detainee Services, Standard 1, Section F.

¹²⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

¹²¹ Notes of delegation member [REDACTED] (b)(6)

LexisNexis, two legal databases, the ICE detainees are not permitted to do online research themselves.¹²²

The library did provide some required materials, among those texts on immigration law and defense, guides for immigration advocates, and other asylum and refugee materials.¹²³ The material provided, however, was clearly outdated, which was confirmed by detainee (b)(6), (b)(7)E.¹²⁴ SDDO (b)(6), (b)(7)E informed the delegation that ICE officials would provide the required updated and adequate legal materials to MCCF at some point in the future.¹²⁵

Detainee (b)(6) explained that ICE detainees never received an orientation or tour of the law library.¹²⁶ He also informed the delegation that as long as the detainee provides the appropriate case citation, requested cases can be located and printed from Westlaw and LexisNexis.¹²⁷ Considering that there is no access to current legal materials, detainees are not allowed to do online research themselves, it is unclear how the detainee can retrieve a case citation, much less become familiar with cases relevant to his or her case.

It must be pointed out, however, that different interviewees at MCCF provided the delegation with contradictory information regarding access to electronic research capabilities. The MCCF librarian indicated that online research was possible for detainees, as he would run searches if requested by inmates.¹²⁸ Detainee (b)(6) on the other hand, indicated that this was not his understanding and that a citation to a specific case was required in order for a detainee to have access to recent developments in immigration law.¹²⁹ According to detainee (b)(6) there are two librarians and each has their own practices in deciding how to dole out library privileges.¹³⁰

122 Notes of delegation members
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Considering the current extent of outdated and missing materials and the lack of access to online materials, the delegation believes that an immigration detainee with a valid defense to removal or a valid claim to asylum would find it extremely difficult, if not impossible, to prepare his or her case without the aid of an attorney.

In the telephone interview following up the delegation's visit to MCCF, SDDO Pepe stated that a CD-ROM with all of the required legal materials is now available in the library and that detainees are allowed to use the compute to navigate this CD-ROM.¹³¹

D. Computer Access, Equipment and Holdings

The *Detention Standards* require that the law library provide an adequate number of typewriters and/or computers, writing implements, paper, and office supplies to enable detainees to prepare documents for legal proceedings.¹³²

The delegation is concerned about the MCCF implementation of this section of the *Standards*. The law library at MCCF does provide two operational computers and several typewriters. Computer access, however, is not always granted and detainees have no ability to electronically store and print legal documents, much less do online research on legal databases.¹³³ According to detainee (b)(6) typewriters are sometimes inoperative when typing ribbons are exhausted and not immediately replaced.¹³⁴ (b)(6) also reported that the typewriters are not equipped with correction tape and correction fluid is unavailable.¹³⁵ Due to the difficulties associated with using typewriters, detainee (b)(6) reported that most detainees write their legal and court documents in long hand.¹³⁶

E. Photocopies

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

¹³¹ Notes of (b)(6) from August 12, 2004 telephone interview with SDDO (b)(6), (b)(6)

¹³² Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

¹³³ Notes of delegation members

¹³⁴ Notes of delegation members

¹³⁵ Notes of delegation members (b)(6)

¹³⁶ Notes of delegation members

proceedings involving the detainee.¹³⁷ Enough copies must be provided to ensure that a detainee can fulfill court procedural rules and retain a copy for his or her records.¹³⁸

The MCCF has partially implemented this section of the *Standards*. All requests for legal materials must be put on a request slip addressed to the attention of the librarian.¹³⁹ Upon receipt of the request for legal materials by the librarian, the materials will be delivered to the cell in the late afternoon and will be retrieved the following morning.¹⁴⁰ The *Inmate Guidelines* do not provide for copying of legal materials. According to detainee (b)(6) photocopies are provided and are free of charge as long as the request for photocopying is reasonable and not frivolous.¹⁴¹ Requests for photocopies of legal materials are, however, only granted on a case-by-case basis.¹⁴²

F. Correspondence and Other Mail

The *Detention 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.¹⁴³ 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.¹⁴⁴ Special correspondence, which includes all written communication to or from attorneys, legal representatives, judges, courts, government officials, and the news media, is treated differently.¹⁴⁵ Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but it can never be read or copied.¹⁴⁶ Outgoing special correspondence

¹³⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

¹³⁸ Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

¹³⁹ Inmate Guidelines, Section 19, A.

¹⁴⁰ Inmate Guidelines, Section 19, A.

¹⁴¹ Notes of delegation members

¹⁴² Notes of delegation members (b)(6)

¹⁴³ Detention Operations Manual, Detainee Services, Standard 4, Section I.

¹⁴⁴ Detention Operations Manual, Detainee Services, Standard 4, Sections III.B., E.

¹⁴⁵ Detention Operations Manual, Detainee Services, Standard 4, Sections III.B., E., F.

¹⁴⁶ Detention Operations Manual, Detainee Services, Standard 4, Sections III.B., E.

cannot be opened, inspected, or read.¹⁴⁷ The *Detention Standards* also require that detention facilities 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.¹⁴⁸

Provided that allegations of detainee (b)(6) are true, the MCCF only partly fulfills the requirements of this section of the *Detention Standards*. The *Inmate Guidelines* stipulate that employees of MCCF will open and examine for contraband all incoming “legal mail” in the presence of the addressee.¹⁴⁹ According to detainee Byfield, however, MCCF employees frequently read incoming legal mail outside of the presence of the addressee.¹⁵⁰ Moreover, detainee (b)(6) claims that charges for legal mail including envelopes are generally deducted from detainee income.¹⁵¹

V. GROUP RIGHTS PRESENTATIONS

The *Detention Standards* provide that facilities shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures consistent with the security and orderly operation of the ICE facility.¹⁵²

The MCCF has not fully implemented certain aspects of this section of the *Detention Standards*. According to MCCF personnel, there are no restrictions on group presentations.¹⁵³ However, MCCF officials and detainee (b)(6) informed the delegation that aside from a professor from the Villanova University Law School approximately two years ago, no other groups or individual presenters seek to provide group presentations to detainees.¹⁵⁴ According to MCCF personnel and detainees, detainees were made aware of the opportunity to

¹⁴⁷ Detention Operations Manual, Detainee Services, Standard 4, Sections III.B., F.

¹⁴⁸ Detention Operations Manual, Detainee Services, Standard 4, Sections III.N.

¹⁴⁹ Inmate Guidelines, p. 13, Section 9, N.

¹⁵⁰ Notes of delegation members (b)(6)

¹⁵¹ Notes of delegation members (b)(6)

¹⁵² Detention Operations Manual, Detainee Services, Standard 9, Section I.

¹⁵³ Notes of delegation members (b)(6)

¹⁵⁴ Notes of delegation members (b)(6)

hear about their legal rights through bulletin boards two weeks before the presentation.¹⁵⁵ The delegation also inquired if the facility aired the “Know Your Rights” video created by the Florence Project and distributed by the ICE. MCCF officials and detainees stated that the video had not been aired.¹⁵⁶ MCCF officials stated that ICE detainees were made aware of the opportunity to request presentations. However, no postings on the bulletin board indicated that the detainees had such opportunities, and detainee (b)(6) was not aware of such opportunities.¹⁵⁷

VI. OTHER CONDITIONS ISSUES

A. Recreation

The *Detention Standards* state that detainees should be placed in facilities that provide outdoor recreation.¹⁵⁸ If the facility does not have an outdoor area, a large recreation room with exercise equipment and access to sunlight will be provided.¹⁵⁹ Each detainee shall have access to outdoor or indoor recreation for at least one hour daily, five days a week.¹⁶⁰ All facilities shall have an individual responsible for the direction and oversight of the recreation program.¹⁶¹ According to the *Detention Standards*, exercise areas are to offer a variety of fixed and moveable equipment; cardiovascular exercise shall be available to detainees for whom recreation is unavailable; recreational activities may include limited-contact sports; and dayrooms will offer board games, television and other sedentary activities.¹⁶² Detainees will not be forced to miss basic law library privileges for recreation privileges.¹⁶³ Detainees in segregation for either administrative or disciplinary purposes should receive recreation separate

¹⁵⁵ Notes of delegation member (b)(6)
¹⁵⁶ Notes of delegation member (b)(6)
¹⁵⁷ Notes of delegation member (b)(6)
¹⁵⁸ Detention Operations Manual, Detainee Services, Standard 13, Section III.A.
¹⁵⁹ Detention Operations Manual, Detainee Services, Standard 13, Section III.A.
¹⁶⁰ Detention Operations Manual, Detainee Services, Standard 13, Section III.B.
¹⁶¹ Detention Operations Manual, Detainee Services, Standard 13, Section III.F.
¹⁶² Detention Operations Manual, Detainee Services, Standard 13, Section III.G.
¹⁶³ Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

from the general population for one-hour each day, but may be denied access to recreation for safety or security purposes.¹⁶⁴

The delegation found the MCCF to provide adequate recreation for detainees. The detainees are allowed to have recreation seven days a week for around two hours a day.¹⁶⁵ In good weather, an outdoor exercise period will be held.¹⁶⁶ MCCF has a large, walled-in, outdoor area that allows for outdoor recreation, although the only recreation allowed is walking around the outdoor area.¹⁶⁷ Gymnasiums and weight rooms are available on a scheduled basis.¹⁶⁸ The delegation witness basketball being played in the gymnasium, and in addition, viewed a weight room containing free weights, weight machines and a stationary bicycle.¹⁶⁹ Television privileges are provided in the day rooms.¹⁷⁰ The Recreation Supervisor plans and conducts sporting events and instructs inmates on the use of recreation equipment.¹⁷¹ Detainee (b)(6) noted that detainees are not forced to choose between law library privileges and recreation time, but that a detainee could sacrifice part of his recreation time to spend more time in the law library.¹⁷² If a detainee is in administrative segregation, he/she is escorted by officers during the scheduled recreation period; if a detainee is in disciplinary segregation, he/she is allowed the minimum recreation allowed by law – one hour daily, five days a week.¹⁷³

B. Educational Opportunities

The *Detention Standards* do not appear to include any language regarding educational opportunities for detainees.

¹⁶⁴ Detention Operations Manual, Detainee Services, Standard 13, Section III.H.

¹⁶⁵ Notes of delegation member (b)(6) noted that handball was allowed in the outdoor area.

¹⁶⁶ Inmate Guidelines, p. 23, Section 21.A.

¹⁶⁷ Notes of delegation member (b)(6)

¹⁶⁸ Inmate Guidelines, p. 23, Section 21.B.

¹⁶⁹ Notes of delegation member (b)(6)

¹⁷⁰ Inmate Guidelines, p. 23, Section 21.C.

¹⁷¹ Inmate Guidelines, p. 23, Section 21.G-H.

¹⁷² Notes of delegation member

¹⁷³ Notes of delegation member (b)(6)

The delegation found that few educational opportunities exist for detainees at MCCF. Education programming, available for inmates twenty-one years of age and under, consists of three levels: a literacy program, adult basic education, and preparation for the Graduate Equivalency Diploma (“GED”) test.¹⁷⁴ Detainee (b)(6) noted that courses are only available in English.¹⁷⁵ MCCF personnel noted to the delegation that some inmates (though not detainees) participate in correspondence education courses.¹⁷⁶

C. Access to Medical Care

1. Access to Medical Treatment

The *Detention Standards* state that each facility should maintain current accreditation by the National Commission on Correctional Health Care.¹⁷⁷ Facilities should provide each detainee with an initial medical screening within 14 days of arrival.¹⁷⁸ The facility should also provide primary medical care, routine dental check-ups, and emergency care.¹⁷⁹ Each facility should have an arrangement with a nearby facility to provide health care services not provided at the detention facility.¹⁸⁰ A physician or qualified medical officer should be available to examine detainees on days known as sick calls.¹⁸¹ At a minimum, the sick calls for a facility with 50 or fewer detainees should be one day per week and a facility with 50-200 detainees should have sick calls three days per week.¹⁸² If the facility has more than 200 detainees, then sick calls should be held five days per week.¹⁸³ Appropriate medical treatment for a detainee should be determined by a health care specialist.¹⁸⁴

¹⁷⁴ Inmate Guidelines, p. 32, Section 41.B.

¹⁷⁵ Notes of Delegation members (b)(6)

¹⁷⁶ Notes of Delegation members (b)(6)

¹⁷⁷ Detention Operations Manual, Health Services, Standard 2, Section I.

¹⁷⁸ Detention Operations Manual, Health Services, Standard 2, Section III.D.

¹⁷⁹ Detention Operations Manual, Health Services, Standard 2, Section III.A.

¹⁸⁰ Detention Operations Manual, Health Services, Standard 2, Section III.A.

¹⁸¹ Detention Operations Manual, Health Services, Standard 2, Section III.F.

¹⁸² Detention Operations Manual, Health Services, Standard 2, Section III.F.

¹⁸³ Detention Operations Manual, Health Services, Standard 2, Section III.F.

¹⁸⁴ Detention Operations Manual, Health Services, Standard 2, Section III.A.

The delegation has found MCCF appears to have implemented the *Detention Standards* with regard to access to medical treatment.

The medical department provides coverage to all inmates seven days a week.¹⁸⁵ The medical center has one medical doctor and one dentist that are available to see detainees Monday to Friday from 9 a.m. to 5 p.m.¹⁸⁶ On the weekends, the medical center is staffed with a physician's assistant and two nurses.¹⁸⁷ The medical center is staffed 24 hours a day with a rotating group of nurses, at least two of which are on duty at all times.¹⁸⁸ If specialists are required to attend to detainees, they are brought to the medical center, but if circumstances require it, a detainee may be taken to a local hospital for treatment.¹⁸⁹ Psychological counseling is provided by a psychologist and case workers during the week.¹⁹⁰ Sick calls are only administered Monday through Friday.¹⁹¹ Inmates may request sick calls by placing a request slip in a designated box and the nursing staff are to review the request slips daily.¹⁹² Priority during sick calls is based on need and emergencies are to be handled immediately.¹⁹³

The delegation was uncertain as to whether detainees at the MCCF were provided an initial medical screening within 14 days of arrival, as required by the *Detention Standards*. Though there is mention in the *Inmate Guidelines* of an initial screening in Section 14 ("Inmate Medical Financial Responsibility Program"), no mention of an initial screening is made in Section 3 ("Processing"). The delegation is unsure whether this initial screening is standard practice for processing detainees arriving at the MCCF, and furthermore, the delegation is unsure as to whether the initial screening is as detailed as that which is proposed by the *Detention Standards*.¹⁹⁴

¹⁸⁵ Inmate Guidelines, p. 17, Section 41.A.

¹⁸⁶ Notes of delegation member

¹⁸⁷ Notes of delegation member

¹⁸⁸ Notes of delegation member

¹⁸⁹ Notes of delegation member

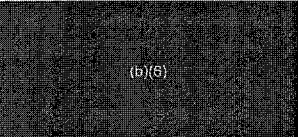
¹⁹⁰ Notes of delegation member

¹⁹¹ Inmate Guidelines, p. 17, Section 41.B.

¹⁹² Inmate Guidelines, p. 17, Section 41.C.

¹⁹³ Inmate Guidelines, p. 17, Section 41.D.

¹⁹⁴ The *Detention Standards* require a full physical examination, screening for tuberculosis and evaluation for drug dependence. Detention Operations Manual, Health Services, Standard 2, Section III.D.



2. Access to Dental Treatment

The *Detention Standards* state that an initial dental screening exam should be performed within 14 days of the detainee's arrival.¹⁹⁵ Detainees should be provided with emergency dental treatment, which includes procedures directed toward the immediate relief of pain, trauma, and acute oral infection that endangers the health of the detainee.¹⁹⁶ Routine dental treatment is to be provided for detainees in long-term detention (detained for over six months).¹⁹⁷

The delegation has found the MCCF has not implemented the *Detention Standards* with regard to dental treatment. The procedures for obtaining dental treatment are the same as the procedures for obtaining medical treatment; dental services may be requested by filling out a sick call request slip and placing it in the designated box and emergencies are to be treated immediately.¹⁹⁸

Detainee (b)(6) presented the delegation with his personal experience with dental treatment at the MCCF. During the early part of this year, detainee (b)(6) suffered sharp pains caused by impacted wisdom teeth on the right side of his jaw.¹⁹⁹ He submitted a request slip to see a dentist and was eventually seen a week after submitting the request despite his request for immediate attention.²⁰⁰ Detainee (b)(6) was attended to by an oral surgeon who operated to extract the impacted wisdom teeth.²⁰¹ During the procedure, the oral surgeon broke detainee (b)(6) jaw on the right side.²⁰² The oral surgeon did not attend to the break and during the two-week period following the procedure an abscess formed in detainee (b)(6) jaw.²⁰³ He was brought to a local hospital where the abscess was treated and a plate was

¹⁹⁵ Detention Operations Manual, Health Services, Standard 2, Section III.E.

¹⁹⁶ Detention Operations Manual, Health Services, Standard 2, Section III.E.

¹⁹⁷ Detention Operations Manual, Health Services, Standard 2, Section III.E.

¹⁹⁸ Inmate Guidelines, p. 17, Section 41.C.-D.

¹⁹⁹ Notes of delegation member (b)(6)

²⁰⁰ Notes of delegation member (b)(6)

²⁰¹ Notes of delegation member (b)(6)

²⁰² Notes of delegation member (b)(6)

²⁰³ Notes of delegation member (b)(6)

installed in his jaw.²⁰⁴ Detainee (b)(6) stated to the delegation that he was still in constant pain, had limited movement of his jaw.²⁰⁵

The delegation found areas of particular concern. First, it was unclear whether detainees received an initial dental examination within 14 days of his/her arrival to the MCCF. Second, it was unclear whether long-term detainees at the MCCF received the right to routine dental treatment. Generally, it appeared to the delegation that the burden of dental health was placed on the detainees.²⁰⁶ Third, if detainee (b)(6) personal experience with the MCCF's dental services is characteristic of the way the MCCF handles dental emergencies, then MCCF's procedures for aiding detainees who request emergency dental care are inadequate.

D. Religious Issues

The *Detention Standards* require broad protection and respect of a detainee's religion and religious practices. Chaplains are required to make arrangements to provide pastoral care and counseling even if religious service providers from outside the facility are requested.²⁰⁷ Facilities are encouraged to bring to the facility representatives and volunteers from faith groups in the community.²⁰⁸ Detainees have the right to engage in group religious activities, and each facility should designate a space for religious services without regard to whether such services are mainstream or non-mainstream.²⁰⁹ Schedules for various services shall be clearly posted in all dorms and on bulletin boards.²¹⁰ Religious headwear is permitted.²¹¹ Detainees shall be allowed to have the following items in their personal property: prayer beads, rosaries, oils, prayer

²⁰⁴ Notes of delegation member (b)(6)
²⁰⁵ Notes of delegation member (b)(6)
²⁰⁶ Observation of delegation member (b)(6)
²⁰⁷ Detention Operations Manual, Detainee Services, Standard 14, Section III.F.
²⁰⁸ Detention Operations Manual, Detainee Services, Standard 14, Section III.I.
²⁰⁹ Detention Operations Manual, Detainee Services, Standard 14, Section III.G.-H.
²¹⁰ Detention Operations Manual, Detainee Services, Standard 14, Section III.E.
²¹¹ Detention Operations Manual, Detainee Services, Standard 14, Section III.K.

rugs, phylacteries, medicine pouches, and religious medallions.²¹² Religious books and literature shall be permitted in accordance with the facility's policies on incoming publications.²¹³

In addition, the *Detention Standards* state that each facility is required to accommodate religious and dietary requirements of each detainee including fasting, restricted diets and specific holy days.²¹⁴ Facilities are to provide detainees requesting a religious diet with a reasonable and equitable opportunity to observe their religious dietary practice.²¹⁵ The detainee shall provide a written statement articulating the religious motivation for participation in a religious diet, and, after verifying the religious dietary requirement, the Chaplain will issue specific written instructions regarding the dietary requirements.²¹⁶ Facilities shall accommodate detainees abstaining from particular foods or fasting for religious purposes at prescribed times of year (e.g., Ramadan, Passover, Lent).²¹⁷

The delegation found the MCCF appears to have implemented the *Detention Standards* with regard to religious issues. Religious services for a variety of faith traditions are held in the Chapel, and a schedule of services is available on notice boards.²¹⁸ Religious activities are scheduled and that an inmate is allowed to sign up for one religious service of the inmate's choice at the time of his intake interview.²¹⁹ An inmate is also allowed to attend other religious activities (e.g., studies, prayer meetings) if the inmate signs up for such activities at the time of his intake interview.²²⁰ Changes of these preferences can be made by request to the Chaplain.²²¹ Ecclesiastically endorsed visitors (ministers, priests, rabbis, imams, etc.) are permitted to visit inmates for personal religious interview from 9:00 AM until 10:00 PM except during mealtimes and head counts.²²² The Chaplain is also available for personal religious

²¹² Detention Operations Manual, Detainee Services, Standard 14, Section III.K.

²¹³ Detention Operations Manual, Detainee Services, Standard 14, Section III.K.

²¹⁴ Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

²¹⁵ Detention Operations Manual, Detainee Services, Standard 7, Section III.E.

²¹⁶ Detention Operations Manual, Detainee Services, Standard 7, Section III.E.

²¹⁷ Detention Operations Manual, Detainee Services, Standard 7, Section III.E.

²¹⁸ Inmate Guidelines, p. 22, Section 20.A.

²¹⁹ Inmate Guidelines, p. 22, Section 20.B.

²²⁰ Inmate Guidelines, p. 22, Section 20.C.

²²¹ Inmate Guidelines, p. 22, Section 20.B-C.

²²² Inmate Guidelines, p. 22, Section 20.E.

counseling.²²³ MCCF personnel stated that the Chaplain has been known to reach out to the surrounding communities for religious leaders, including those of non-traditional faiths, that could assist inmates and detainees in the worship of and counseling in their faiths.²²⁴ Inmates are allowed to have the following religious items in their personal property, subject to certain restrictions: a religious medallion (allowed one medallion smaller than a 50-cent coin and on a jewelry chain 24 inches or shorter); religious head coverings (permitted two at a time); prayer rugs (allowed one); religious beads (allowed one set that is 1/4" bead diameter); and religious books.²²⁵ MCCF personnel also noted that inmates and detainees who have religious dietary restrictions are provided with meals that comply with such restrictions.²²⁶

The delegation, however, is uncertain as to whether the *Detention Standards* guidelines for approval of religious diets are being followed by the MCCF. It is unclear from review of the *Inmate Guidelines* how a detainee would be able to gain approval of his religious dietary restrictions. Section 21 of the *Inmate Guidelines* ("Religious Services, Chaplain and Religious Counseling") does not set forth the procedure a detainee would have to follow to ensure his meals complied with his religious dietary restrictions. The only mention of accommodations for "special diets" is found in Section 6 ("Meal Procedures") where it is noted that such meals are only to be authorized by the Medical Department of the MCCF. Despite this, MCCF personnel and detainee (b)(6) both stated to the delegation that the religious dietary restrictions of detainees are respected at the MCCF. The delegation did not ask how approval of these special diets was made. The process of dietary approval should follow the *Detention Standards*.

One inconsistency exists between the account of detainee (b)(6) and the *Inmate Guidelines*. Detainee (b)(6) stated that detainees whose religion requires that a head covering be worn are told not to do so by MCCF personnel.²²⁷ Religious head coverings, subject to some regulations, are allowed according to the *Inmate Guidelines*.

²²³ Inmate Guidelines, p. 22, Section 20.H.

²²⁴ Notes of delegation member (b)(6)

²²⁵ Inmate Guidelines, p. 22-23, Section 20.I.

²²⁶ Notes of delegation members

²²⁷ Notes of Delegation members (b)(6)

E. Detainee Classification

The *Detention Standards* state that facilities must have appropriate classification systems that ensure that each detainee is placed in the appropriate risk category and is physically separated from detainees in other categories.²²⁸ ISGA facilities such as the MCCF can use the classification systems developed locally if the classification criteria are objective and all procedures meet ICE requirements.²²⁹ Detainees are to be initially classified at intake, and classification will take into consideration objective information regarding the detainee, such as current offenses, past offenses, escapes, institutional disciplinary history, violent episodes/incidents, etc.²³⁰ In ISGA such as the MCCF, ICE officials shall provide non-ICE officials with materials through which the proper classification may be made.²³¹ Detainees shall be housed according to their classification level.²³²

The delegation found the MCCF to have implemented the *Detention Standards* with regard to detainee classification. MCCF personnel explained to the delegation that detainees were categorized according to the risk classification system used locally.²³³ This risk category system categorized the detainees and inmates by jumpsuits in different colors.²³⁴ According to the local system, an inmate's risk category is determined by the objective standard of an inmate's bail amount.²³⁵ Detainees were classified according to objective information provided to the MCCF by ICE.²³⁶ MCCF personnel explained to the delegation that the detainees held in the pod visited were grouped with inmates of the lowest risk category.²³⁷ Detainee (b)(6) when interviewed by the delegation, was wearing a blue jumpsuit, indicating his classification in the lowest risk category.²³⁸

²²⁸ Detention Operations Manual, Detainee Services, Standard 4, Section 1.
²²⁹ Detention Operations Manual, Detainee Services, Standard 4, Section III.A.
²³⁰ Detention Operations Manual, Detainee Services, Standard 4, Section III.B.-D.
²³¹ Detention Operations Manual, Detainee Services, Standard 4, Section III.D.
²³² Detention Operations Manual, Detainee Services, Standard 4, Section III.E.
²³³ Notes of delegation member [REDACTED]
²³⁴ Notes of delegation member [REDACTED]
²³⁵ Notes of delegation member [REDACTED]
²³⁶ Notes of delegation member [REDACTED] (b)(6)
²³⁷ Notes of delegation member [REDACTED]
²³⁸ Notes of delegation member [REDACTED]

F. Legal Material Retention

The *Detention Standards* state that, among other items of personal property, detainees shall be allowed to keep reasonable quantities of legal documents and papers.²³⁹

The delegation found the MCCF to have implemented the *Detention Standards* with regard to the retention of legal materials. The *Inmate Guidelines* note that inmates are allowed to have legal documents and papers in their personal property.²⁴⁰

G. Work Programs

The *Detention Standards* state that every facility with a work program shall provide detainees who are physically and mentally able to work the opportunity to work and earn money.²⁴¹ Work assignments will depend on the detainee's classification level.²⁴² Detainees shall not be permitted to work more than 8 hours a day, 40 hours weekly.²⁴³ Work assignments are voluntary and detainees may be removed from work programs for unsatisfactory performance, disruptive behavior, infractions of rules, or physical inability to perform the job.²⁴⁴

The delegation found MCCF to provide work programs to detainees. The *Inmate Guidelines*, which do not differentiate between detainees and inmates, only provides details on how the Facility's Work Release program operates. According to detainee (b)(6) detainees are not eligible for the Work Release program.²⁴⁵ Detainee (b)(6) does, however, work as a meal tray porter inside the pod containing the detainees; he noted that other detainees also worked jobs.²⁴⁶

H. Grievance and Disciplinary Procedures

1. Grievance Procedures

²³⁹ Detention Operations Manual, Detainee Services, Standard 8, Section III.B.

²⁴⁰ Inmate Guidelines, p. 5; Section 3.L.

²⁴¹ Detention Operations Manual, Detainee Services, Standard 18, Section III.A.

²⁴² Detention Operations Manual, Detainee Services, Standard 18, Section III.A.

²⁴³ Detention Operations Manual, Detainee Services, Standard 18, Section III.H.

²⁴⁴ Detention Operations Manual, Detainee Services, Standard 18, Section III.C., L.

²⁴⁵ Notes of delegation member

²⁴⁶ Notes of delegation member

(b)(6)

The *Detention Standards* state that each facility must develop standard operating procedures that address detainee grievances including emergency grievances and must guarantee against any reprisals.²⁴⁷ An informal procedure should be in place for a detainee to present orally his or her concern to any staff member at any time within five days of the event.²⁴⁸ Each facility must allow detainees to submit a formal, written grievance in place of or in appeal of an informal grievance filing.²⁴⁹ Each facility should make provisions to provide translation assistance when requested by a detainee.²⁵⁰ Illiterate, disabled, or non-English speaking detainees should be given the opportunity to receive assistance in filing formal grievance.²⁵¹

The delegation found the MCCF to have partially implemented the *Detention Standards* with regard to grievance procedures. If an inmate has a complaint/request or grievance, the inmate should consult a staff member.²⁵² If immediate assistance is required, an officer can be called to the inmate's cell.²⁵³ Supervisors and Social Service Counselors are assigned to answer request/complaints or grievances.²⁵⁴ If the inmate does not agree with the answer given, the inmate may direct his/her request/complaint or grievance to various MCCF staff.²⁵⁵ Request/complaints or grievances can be made to the Warden or his staff either in person or by submitting a Request Slip.²⁵⁶ Requests/complaints or grievances also can be made to the Board of Prison Inspectors during their monthly inspection tours.²⁵⁷

A formalized process for translation and assistance detailed in the *Inmate Guidelines* would ensure clear communication between MCCF staff and detainees in grievance (and other) situations and would avoid the uncertainty of *ad hoc* translations.

2. Disciplinary Procedures

²⁴⁷ Detention Operations Manual, Detainee Services, Standard 5, Section III A, B, D.

²⁴⁸ Detention Operations Manual, Detainee Services, Standard 5, Section III A.

²⁴⁹ Detention Operations Manual, Detainee Services, Standard 5, Section III A.

²⁵⁰ Detention Operations Manual, Detainee Services, Standard 5, Section III A.

²⁵¹ Detention Operations Manual, Detainee Services, Standard 5, Section III A.

²⁵² Inmate Guidelines, p. 24, Section 25.A.

²⁵³ Inmate Guidelines, p. 24, Section 25.B.

²⁵⁴ Inmate Guidelines, p. 24, Section 25.D.

²⁵⁵ Inmate Guidelines, p. 24, Section 25.E.

²⁵⁶ Inmate Guidelines, p. 24, Section 25.F.

²⁵⁷ Inmate Guidelines, p. 24, Section 25.G.

The *Detention Standards* state that rules of conduct and disciplinary sanctions shall be posted in English, Spanish, and /or other languages spoken by significant numbers of detainees.²⁵⁸ Disciplinary action shall not be capricious or retaliatory.²⁵⁹ A facility disciplinary system should not allow for corporal punishment, deviation from normal food, or deprivation of: clothing, bedding, personal hygiene products, physical exercise, access to legal and family visitation, telephone access, correspondence or access to law libraries.²⁶⁰ Punishments shall range from the withholding of privileges to segregation.²⁶¹ Time in segregation generally shall not exceed 60 days.²⁶² Facilities shall have graduated scales of offenses and disciplinary consequences.²⁶³ The facility shall not hold a detainee accountable for his/her conduct if medical authority finds him/her mentally incompetent.²⁶⁴

Officers who witness a prohibited act or have reason to suspect one has been committed shall prepare and submit a detailed incident report.²⁶⁵ All incident reports should be investigated within 24 hours of the incident.²⁶⁶ The investigating officer shall have supervisory rank and shall have had no involvement in the incident.²⁶⁷ Detainees will receive a copy of the incident report or notice of charges at least 24 hours before the start of disciplinary proceedings, and have the right to an initial hearing before the Unit Disciplinary Committee, if applicable.²⁶⁸ Detainees have the right to: remain silent at any stage of the disciplinary process, attend the entire Unit Disciplinary Committee hearing, waive the right to appear at the hearing, present statements on his/her own behalf, appeal the committee's decision through the detainee appeal process, and have a staff representative assist in helping prepare a defense.²⁶⁹

²⁵⁸ Detention Operations Manual, Security and Control, Standard 3, Section III.A.5.

²⁵⁹ Detention Operations Manual, Security and Control, Standard 3, Section III.A.2.

²⁶⁰ Detention Operations Manual, Security and Control, Standard 3, Section III.A.3.

²⁶¹ Detention Operations Manual, Security and Control, Standard 3, Disciplinary Severity Scale and Prohibited Acts.

²⁶² Detention Operations Manual, Security and Control, Standard 3, Section III.H.

²⁶³ Detention Operations Manual, Security and Control, Standard 3, Section III.I.

²⁶⁴ Detention Operations Manual, Security and Control, Standard 3, Section III.A.4.

²⁶⁵ Detention Operations Manual, Security and Control, Standard 3, Section III.C.

²⁶⁶ Detention Operations Manual, Security and Control, Standard 3, Section III.C.

²⁶⁷ Detention Operations Manual, Security and Control, Standard 3, Section III.C.

²⁶⁸ Detention Operations Manual, Security and Control, Standard 3, Section III.C.

²⁶⁹ Detention Operations Manual, Security and Control, Standard 3, Section III.C.

The delegation found the MCCF to be lacking with regard to implementation of the *Detention Standards* relating to disciplinary procedures. The *Inmate Guidelines* provide a detailed list of disciplinary violations that are divided into two categories: “major misconducts” and “minor misconducts.”²⁷⁰ All inmates accused of misconducts have the right to a hearing before the Disciplinary Hearing Board before any punishment is imposed.²⁷¹ The elements of a hearing provided in the *Inmate Guidelines* closely tracks those outlined in the *Detention Standards*. Depending on the seriousness of the misconduct, the Disciplinary Hearing Board can punish an inmate with sanctions such as: disciplinary segregation up to 30 days maximum; loss of privileges; loss of “good time”; reprimand or warning; prosecution in a local court; payment of restitution; suspended sentences; and delay of release date.²⁷²

The delegation found several areas of particular concern. First, the copies of the *Inmate Guidelines*’ rules of conduct and disciplinary sanctions are not made available to detainees in languages other than English. Second, it does not appear that MCCF’s investigative process for detainee disciplinary hearings conforms to the *Detention Standards*. If MCCF does have a process in place, it is not properly illustrated in the *Inmate Guidelines*. Third, the *Inmate Guidelines* make no mention of assistance to detainees in preparation of a defense for a disciplinary hearing.

VII. ICE PRESENCE AT THE FACILITY

The *Detention Standards* require procedures to be in place “to allow for formal and informal contact between key facility staff and ICE staff and ICE detainees and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame.”²⁷³ The *Detention Standards* require that both weekly visits be conducted by ICE personnel and that “regular unannounced (not scheduled) visits” be conducted by the ICE OIC, the Assistant OIC, and designated department heads.²⁷⁴ The purpose of such visits is to monitor housing conditions, interview detainees, review records, and answer questions for detainees who

²⁷⁰ Inmate Guidelines, p. 29-30, Section 36.

²⁷¹ Inmate Guidelines, p. 31, Section 38.A.

²⁷² Inmate Guidelines, p. 30, Section 36.D.

²⁷³ Detention Operations Manual, Staff-Detainee Communication, Section I.

²⁷⁴ Detention Operations Manual, Staff-Detainee Communication, Section III.A.

do not comprehend the immigration removal process.²⁷⁵ The *Detention Standards* also require that detainees “have the opportunity to submit written questions, requests, or concerns to ICE staff.”²⁷⁶ All facilities that house ICE detainees must have “written procedures to route detainee requests to the appropriate ICE official” and must assist detainees “who are disabled, illiterate, or know little or no English.”²⁷⁷ Moreover, the *Detention Standards* require that detainee requests be forwarded to the appropriate ICE office within 72 hours and “answered as soon as possible or practicable, but not later than 72 hours from receiving the request.”²⁷⁸

As of the date of the delegation’s visit, ICE had not implemented this section of the *Detention Standards* at MCCF. Although SDDO (b)(6), (b)(7) was present at the facility on the day of the delegation’s visit, she made it clear that there is no weekly ICE presence at the facility; rather, visits are less frequent.²⁷⁹ There is no notice giving detainees information about how to contact ICE officials and there are no written procedures in place for dealing with such requests.²⁸⁰ SDDO (b)(6), (b)(7) indicated that she was just assigned to the facility and that she was well aware that these requirements are not being met at the present time. SDDO (b)(6), (b)(7) appeared eager to implement the standards.²⁸¹

Detainee (b)(6), (b)(7) an ICE detainee at the MCCF for three years, reported feeling isolated because of the lack of ICE contact.²⁸² He reported that he has rarely seen ICE officials at the facility and that when he tried to make contact with ICE officials, they did not acknowledge him.²⁸³ The last visit he reported was three months prior to our visit with him and he still has not been able to get an update on the status of his case.²⁸⁴

In a telephone interview after the delegation’s visit to the MCCF, SDDO (b)(6), (b)(7) indicated that ICE had instituted a written policy for ICE detainees and that they had begun

²⁷⁵ Detention Operations Manual, Staff-Detainee Communication, Section III.A.
²⁷⁶ Detention Operations Manual, Staff-Detainee Communication, Section III.B.
²⁷⁷ Detention Operations Manual, Staff-Detainee Communication, Section III.B.
²⁷⁸ Detention Operations Manual, Staff-Detainee Communication, Section III.B.1.
²⁷⁹ Notes of delegation member (b)(6), (b)(7)
²⁸⁰ Notes of delegation member (b)(6), (b)(7)
²⁸¹ Notes of delegation member (b)(6), (b)(7)
²⁸² Notes of delegation member (b)(6), (b)(7)
²⁸³ Notes of delegation member (b)(6), (b)(7)
²⁸⁴ Notes of delegation member (b)(6), (b)(7)

advertising their presence. There are no plans, however, to make ICE visits weekly and implement this section of the standards.²⁸⁵ SDDC (b) (6) indicated that the reason they do not meet this standard is the low number of detainees at the facility; she indicated that there were generally approximately 6-7 long term detainees and that given such a low number of users of their services, they did not have the resources to visit the facility that frequently.²⁸⁶

VIII. CONCLUSION

The delegation is concerned that the MCCF is generally deficient in providing adequate translation services for detainees. Overall, the delegation believed that the MCCF is adequate for short-term detention stays, but not adequate for long-term detention. The procedures and policies for long-term detention in accordance with the *Detention Standards* are simply not in place.

²⁸⁵ Notes of delegation member (b)(6)
²⁸⁶ Notes of delegation member (b)(6)