

Facility Name: **McHENRY COUNTY ADULT CORRECTIONAL FACILITY, Woodstock, IL**

Date of Tour: **July 27, 2006**

Tour Participants: Latham & Watkins LLP attorneys and summer associates Cindy Sobel, Matthew Pryor, Katherine Brown, Dan Glad, Robby Sen, and Sarah Tomkowiak.

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

**Report comments in bold are priority issues for ICE-ABA discussion; others are issues of concern to discuss if time permits.**

	ICE Standard*	Delegation Report	Source	ICE Response
1.	<p><b>Standard 17, Visitation</b></p> <ul style="list-style-type: none"> <li>▪ III.I.3.b. Upon presentation of a letter of authorization from the legal representative under whose supervision he/she is working, an unaccompanied legal assistant may meet with a detainee during legal visitation hours.</li> <li>▪ III.O.5. Medical and/or psychological examination by a practitioner or expert not associated with INS or the facility can provide a detainee with information useful in administrative proceedings .... Therefore, the Deputy Director will generally approve examinations for such purposes, if the requested examination would not present an unreasonable security risk.</li> <li>▪ <b>III.I.9. Routine official counts shall not terminate attorney visits.</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ Legal assistants may not meet with a detainee unless an attorney is present, and independent medical service providers or other experts may not meet with a detainee without a court order. (p4. ¶1)</li> <li>▪ <b>Legal visitation is cut off at mealtime and during head counts, and there is no opportunity to resume the visit afterwards. (p4. ¶2)</b></li> </ul>	<p>(b)(6), (b)(7)(c)</p>	
2. 3.	<p>Standard 17, Visitation</p> <ul style="list-style-type: none"> <li>▪ III.H. The facility's written rules shall specify time limits for visits: 30 minutes minimum, under normal conditions.</li> </ul> <p><b>Standard 16, Telephone Access</b></p> <ul style="list-style-type: none"> <li>▪ <b>III.A. The facility shall provide detainees with reasonable access to telephones during established facility waking hours ....</b></li> <li>▪ <b>III.F. The facility shall not restrict the number of calls a detainee places to his/her legal representative, nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones. If time limits are necessary for such calls, they shall be no shorter than 20 minutes ....</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ Detainees may only have one 15-minute non-legal visit per week. (p.6 ¶2)</li> <li>▪ <b>All telephone calls made by detainees are automatically disconnected after 15 minutes. (p.7 ¶4)</b></li> </ul>	<p>Visitation Schedule, Lt.</p> <p>(b)(6), (b)(7)</p>	

<p>4.</p>	<p><b>Standard 16, Telephone Access</b></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.</li> </ul>	<ul style="list-style-type: none"> <li>Detainees are unable to make private calls because the phones where they can make outgoing calls are located in community living areas with no privacy safeguards. Detainees may have private phone calls with their attorneys only if the calls are initiated by the attorney, and are set up in advance. (p.9 ¶3)</li> </ul>	<p>Delegation observations,</p> <p>(b) (7)(C)</p>	
<p>5.</p>	<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>Detainees have access to LexisNexis, but no hardbound legal resources are available. (p.12 ¶5)</li> <li>It is unclear whether the secondary resources listed in Attachment A are available; no summary of holdings or resources was available for the delegations review. (p.13 ¶1)</li> </ul>	<p>(b) (7)(C)</p>	
<p>6.</p>	<p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> <li>III.L. Unrepresented illiterate or non-English speaking detainees who wish to pursue a legal claim related to their immigration proceedings or detention and indicate difficulty with the legal materials must be provided with more than access to a set of English-language law books.</li> </ul>	<ul style="list-style-type: none"> <li>The law library does not contain any materials written in Spanish. (p.13 ¶7)</li> </ul>	<p>Detainee (b) (7)(C)</p>	
<p>7.</p>	<p><b>Standard 1, Access to Legal Material</b></p> <ul style="list-style-type: none"> <li>III.J. The facility shall ensure that detainees can obtain photocopies of legal material, when such copies are reasonable and necessary for a legal proceeding involving the detainee. This may be accomplished by providing detainees with access to a copier or by making copies upon request.</li> </ul>	<ul style="list-style-type: none"> <li>Detainees are not able to print anything other than their own letters, briefs, and filings, <i>i.e.</i>, no case law, statutes, or codes may be printed. (p.11 ¶¶3, 4)</li> <li>Since detainees are unable to print and retain relevant codes, statutes, and case law, they do not have access to copies of these legal materials. (p.14 ¶2)</li> </ul>	<p>Delegation observations,</p> <p>(b) (7)(C)</p> <p><i>Id.</i></p>	
<p>8.</p>	<p><b>Standard 9, Group Presentations on Legal Rights</b></p> <ul style="list-style-type: none"> <li>III.C. At least 48 hours before a scheduled presentation, informational posters shall be prominently displayed in the housing units, and each housing unit control officer will hold a sign-up sheet.</li> <li>III.I. Videotaped presentations. The facility shall play INS-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>There is no posted notice of presentations. Officers may provide verbal notification, but detainees reported not receiving verbal notification from officers. (p.15 ¶2)</li> <li>There is not a "Know Your Rights" video available for detainees to view. (p.15 ¶2)</li> </ul>	<p>(b) (7)(C)</p>	

9.	<p><b>Standard 3, Correspondence and Other Mail</b></p> <ul style="list-style-type: none"> <li>III.F. Inspection of Outgoing Correspondence and Other Mail. Outgoing special correspondence will not be opened, inspected, or read.</li> </ul>	<ul style="list-style-type: none"> <li>The Detainee Handbook states that “outgoing special correspondence will not be opened, inspected, or read.” However, [redacted] stated that outgoing mail, including special correspondence, is opened and inspected for contraband. (p.16 ¶3)</li> </ul>	<p>Detainee Handbook, Lt. [redacted]</p>	
10.	<p>Standard 13, Recreation</p> <ul style="list-style-type: none"> <li>III.A. Every effort shall be made to place a detainee in a facility that provides outdoor recreation. ... All new or renegotiated contracts and IGSA's will stipulate that INS detainees have access to an outdoor recreation area.</li> <li>III.B.1. If outdoor recreation is available at the facility, each detainee shall have access for at least one hour daily, at a reasonable time of day, five days a week, weather permitting.</li> <li>III.B.2. If only indoor recreation is available, detainees shall have access for at least one hour each day and shall have access to natural light.</li> <li>III.G. Exercise areas will offer a variety of fixed and movable equipment.</li> </ul>	<ul style="list-style-type: none"> <li>McHenry only has indoor recreation available. (p.17 ¶5)</li> <li>Neither recreation room contains any fixed or movable equipment. (p.18 ¶2)</li> <li>There is no set schedule for use of either recreation room; instead, detainees request access for periods of one hour. However, detainees report that this system leads to inadequate access to recreation facilities, as their requests are often denied. (p.18 ¶2)</li> </ul>	<p>[redacted]</p> <p>Delegation observations, Lt. [redacted]</p> <p>[redacted]</p>	
11.	<p>Health Services Standard 2, Medical Care</p> <ul style="list-style-type: none"> <li>I. All detainees shall have access to medical services that promote detainee health and general well-being.</li> <li>III.A. Every facility will provide its detainee population with initial medical screening, cost-effective primary medical care, and emergency care.</li> <li>III.E. Dental Treatment. An initial dental screening exam should be performed within 14 days of the detainee's arrival.</li> </ul>	<ul style="list-style-type: none"> <li>Several detainees raised concerns about the quality of medical care and the responsiveness of the medical staff at the facility. (p.20 ¶1)</li> <li>Detainees reported that they did not receive a dental screening either upon arrival or within the first four to six months of detention. (p.21 ¶1)</li> <li>Detainees stated that the toothbrushes and toothpaste provided are inadequate for basic oral sanitation, and that their written grievances regarding these items have gone unanswered. (p.21 ¶1)</li> </ul>	<p>[redacted]</p> <p>Detainees [redacted]</p> <p>[redacted]</p>	
12.	<p>Standard 4, Detainee Classification System</p> <ul style="list-style-type: none"> <li>III.I. The detainee handbook's section on classification will include the following: 1. An explanation of the classification levels with the conditions and restrictions applicable to each. 2. The procedures by which a detainee may appeal his/her classification.</li> </ul>	<ul style="list-style-type: none"> <li>ICE Officer [redacted] stated that there is no procedure to appeal detainee classification, although the Handbook indicates that there is an appeal process. Detainees said they did not know how to appeal to change their classification. (p.24 ¶2)</li> </ul>	<p>Officer [redacted]</p> <p>Detainee Handbook, [redacted]</p>	

13.	<p>Standard 5, Detainee Grievance Procedures</p> <ul style="list-style-type: none"> <li>I. [S]tandard operating procedures (SOP) must establish a reasonable time limit for: ... (iii) providing written responses to detainees who filed formal grievances, including the basis for the decision.</li> </ul>	<ul style="list-style-type: none"> <li>Detainees gave mixed reports on the responsiveness of staff to grievances, some stating that their grievances have gone unanswered. (p.21 ¶1)</li> </ul>	(b)(7)(D)	
14.	<p><b>Security and Control Standard 5, Disciplinary Policy</b></p> <ul style="list-style-type: none"> <li><b>III.A.2. Disciplinary action may not be capricious or retaliatory.</b></li> </ul>	<ul style="list-style-type: none"> <li>One detainee reported an incident of excessive punishment when he was put in segregation for three days for carrying chapstick that he purchased at the commissary back into the facility after court. <b>He did not receive a hearing or written report for this violation, and says he would have appealed the punishment, but did not know how.</b> (p.29 ¶3)</li> </ul>	Detainee (b)(7)(D)	
15.	<p>Standard 14, Religious Practices</p> <ul style="list-style-type: none"> <li>III. K. Detainees shall have access to personal religious property, consistent with facility security. Detainee religious property includes ... rosaries and prayer beads, oils, prayer rugs .... A detainee ordinarily shall be allowed to wear or use personal religious items during religious services .... Religious headwear ... is permitted in all areas of the facility, subject to the normal considerations of security and good order ....</li> </ul>	<ul style="list-style-type: none"> <li>Detainees are not permitted to retain most personal property, including religious jewelry, sacred ornaments and religious headwear. (p.30 ¶2)</li> </ul>	(b)(7)(D) detainee	
16.	<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. ... Every detainee will receive a copy of this handbook upon admission to the facility.</li> <li>III. E. The handbook will be written in English and translated into Spanish and, if appropriate, into the next most-prevalent language(s) among the facility's detainees....</li> </ul>	<ul style="list-style-type: none"> <li>One detainee reported that she did not receive a handbook upon arrival or during her subsequent time at the facility. (p.34 ¶2)</li> <li>There is currently no Spanish version of the handbook available to detainees. (p.34 ¶2)</li> </ul>	Detainee Officer (b)(7)(D), (b)(7)(F)	

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MEMORANDUM

August 14, 2006

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

**From:** American Bar Association Delegation to the McHenry County Adult Correctional Facility

**Copies to:** (b)(6) Associate Director, ABA Commission on Immigration

**Subject:** Report on Observational Tour of the McHenry County Adult Correctional Facility in Woodstock, Illinois

This memorandum summarizes and evaluates information gathered at the McHenry County Adult Correctional Facility (“MCACF” or “the Facility”) in Woodstock, Illinois, during the delegation’s July 27, 2006 visit to the Facility. The information was gathered via observation of the Facility by the members of the delegation,<sup>1</sup> interviews with six detainees, and discussions with MCACF 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 and food service. 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 IGSA facilities by December 31, 2002. The *Standards* constitute a “floor” rather

<sup>1</sup> The delegation members included Associates (b)(6) as well as Summer Associates (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”).

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**

**A. The Delegation’s July 27, 2006 Visit**

On Thursday, July 27, 2006, the members of our delegation met with several members of MCACF’s staff and two representatives from ICE. Lieutenants (b)(6), (b)(7)c and (b)(6), (b)(7)c, and Deportation Officer (b)(6), (b)(7)c led our delegation on a tour of the facilities. The delegation also met with other MCACF personnel throughout the course of the tour, including Chief (b)(6), (b)(7)c. The delegation very much appreciated 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 MCACF and ICE employees, as well as observations of the Facility and interviews with six immigration detainees. In many instances, the detainees’ reports were compatible with statements made by Facility personnel and/or our observations. In such cases, the delegation was able to more accurately determine whether MCACF policies and procedures were consistent with the *Standards*. However, in a few instances, the detainees’ reports conflicted with statements made by Facility personnel. Where we were unable to verify the conflicting reports, the delegation was unable to conclusively determine the extent to which MCACF complies with the *Standards*.

**B. General Information about the McHenry County Adult Correctional Facility**

The McHenry County Adult Correctional Facility (“MCACF”) houses federal immigration detainees according to an intergovernmental service agreement (“IGSA”) with ICE.<sup>3</sup> According to MCACF personnel, the Facility has the capacity to hold 650 individuals.<sup>4</sup> As of July 27, 2006, MCACF’s population was 483 inmates and detainees in total, 196 of whom were immigration detainees.<sup>5</sup> MCACF houses mostly males.<sup>6</sup> At the time of our visit, facility personnel estimated that only 26 female detainees were housed there.<sup>7</sup> ICE Deportation Officer (b)(6), (b)(7) informed the delegation that the facility houses immigration detainees from many different parts of the world, including Latin America, China, Southeast Asia, Africa, and Eastern Europe.<sup>8</sup> Facility personnel also said most of the detainees at MCACF had criminal records.<sup>9</sup>

<sup>3</sup> Notes of delegation member (b)(6) on conversation with Chief (b)(6), (b)(7)c  
<sup>4</sup> Notes of delegation member (b)(6) on conversation with Chief (b)(6), (b)(7)c  
<sup>5</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c  
<sup>6</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c  
<sup>7</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c  
<sup>8</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c  
<sup>9</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

### III. LEGAL ACCESS STANDARDS

#### A. Legal Access/Visitation

##### 1. Visitation by Attorneys

The *Standards* suggest that facilities permit legal visitation seven days per week.<sup>10</sup> Attorneys should have access to their clients eight hours per day during the week and four hours per day during the weekend and on holidays.<sup>11</sup> The visits must be private, and should not be interrupted for head counts.<sup>12</sup> Facilities should establish a procedure by which attorneys may call to determine whether a detainee is housed in a particular facility.<sup>13</sup> Detention centers should permit visits from attorneys, other legal representatives, legal assistants, and interpreters.<sup>14</sup>

**MCACF partially meets this section of the *Standards*. However, legal visitation terminates during meals and head counts, with no opportunity to resume the visit afterwards.** According to facility staff, legal visitation is permitted at any time; 24 hours per day, 7 days a week, so long as the facility is not on “lockdown” status.<sup>15</sup> The information in the “McHenry County Adult Correctional Facility ICE Detainee Handbook” (hereinafter “McHenry Detainee Handbook”) differs slightly from that provided by facility staff, as the McHenry Detainee Handbook notes that attorney visitation is allowed during “normal business hours.”<sup>16</sup> Facility staff indicated that attorneys may visit their clients at any time, but must call ahead to schedule a visit.<sup>17</sup> Attorneys may also call the facility to determine whether a detainee is currently housed at MCACF.<sup>18</sup> Upon arrival at the facility, an attorney must present his or her bar card before a contact visit with a detainee is permitted.<sup>19</sup> The McHenry Detainee Handbook also notes that “[a]ll attorneys must have filed a G28 form with ICE.”<sup>20</sup> Furthermore, “[a]ll attorneys... are subject to search.”<sup>21</sup>

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<sup>10</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

<sup>11</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

<sup>12</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.9.

<sup>13</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.6.

<sup>14</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.I.3.

<sup>15</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)

<sup>16</sup> McHenry County Adult Correctional Facility, ICE Detainee Handbook (hereinafter “McHenry Detainee Handbook”) at 15.

<sup>17</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6)

<sup>18</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)c

<sup>19</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6)

<sup>20</sup> McHenry Detainee Handbook at 15.

<sup>21</sup> McHenry Detainee Handbook at 15.

Attorneys, police officers, probation officers, interpreters, and other counselors may meet with detainees in one of three “contact” rooms within the Facility.<sup>22</sup> Legal assistants may not meet with a detainee unless an attorney is present,<sup>23</sup> and independent medical service providers or other experts may not meet with a detainee without a court order.<sup>24</sup> In contact rooms, the detainee and the attorney are separated by a Plexiglas partition that contains an opening through which they may exchange documents and other materials.<sup>25</sup> The contact rooms contain a window through which the officers may monitor the visit, but there is no audio monitoring.<sup>26</sup>

According to facility staff, legal visitation is cut off at mealtime and during head counts.<sup>27</sup> There is no opportunity to resume the visit afterwards.<sup>28</sup> However, the McHenry Detainee Handbook indicates that “[c]onsideration will be given for Attorneys to continue visiting with their clients during meal times if necessary.”<sup>29</sup>

Detainees are given a “pat down” search after contact visits.<sup>30</sup> If an officer suspects that the detainee received contraband during the visit, a more thorough search may be conducted.<sup>31</sup>

## 2. Visitation by Family and Friends

The *Standards* suggest that facilities establish written visitation hours and procedures, and make them available to the public.<sup>32</sup> This includes procedures for handling incoming money for detainees.<sup>33</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>34</sup> Visits should be at least 30 minutes long and longer when

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<sup>22</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED]

<sup>23</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED] (b)(6), (b)(7)c

<sup>24</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Lt. [REDACTED]

<sup>25</sup> Notes of delegation member [REDACTED] on observation of contact visitation rooms and conversation with Lt. [REDACTED] (b)(6), (b)(7)

<sup>26</sup> Notes of delegation member [REDACTED] (b)(6) on observation of contact visitation rooms and conversation with Lt. [REDACTED] (b)(6), (b)(7)

<sup>27</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Lt. [REDACTED] (b)(6), (b)(7)c

<sup>28</sup> Notes of delegation member [REDACTED] on conversation with Lt. [REDACTED] (b)(6), (b)(7)c

<sup>29</sup> McHenry Detainee Handbook at 15.

<sup>30</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Lt. [REDACTED] (b)(6), (b)(7) notes of delegation members [REDACTED] (b)(6) on interview with detainee [REDACTED] (b)(6)

<sup>31</sup> Notes of delegation member [REDACTED] (b)(6) on conversation with Lt. [REDACTED] (b)(6), (b)(7)

<sup>32</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.A & B.

<sup>33</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.D.

<sup>34</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.



possible.<sup>35</sup> Visits should be granted to detainees in both disciplinary and administrative segregation unless a detainee violates the visitation rules or threatens the security of the visitation room.<sup>36</sup>

**MCACF substantially meets this section of the *Standards*. However, the facility only permits one 15-minute visit per week, which is insufficient.** Copies of the visitation schedule are available in the main lobby of the facility.<sup>37</sup> For males, visiting hours are from 5:00 p.m. to 9:00 p.m., Monday, Wednesday, and Friday, and from 12:00 p.m. to 3:00 p.m. on Saturday.<sup>38</sup> For females, visiting hours take place on Thursday from 5:00 p.m. to 9:00 p.m., and on Saturday from 9:00 a.m. to 10:30 a.m.<sup>39</sup> Visitors must call the Front Desk of the Facility to schedule a visit twenty-four hours in advance.<sup>40</sup> The call-ahead policy is in place to better manage the flow of visitors.<sup>41</sup> Visitors are required to sign the visitor log.<sup>42</sup> A detainee may have up to four visitors present during one visit.<sup>43</sup> There is no formal dress code for visitors—it is at the discretion of the officers.<sup>44</sup>

All visitations with family and friends take place via “videoconferencing.”<sup>45</sup> All visitors pass through a metal detector before entering the videoconferencing room on the first floor of the Facility.<sup>46</sup> The room contains approximately twenty video monitors, each of which is coupled with a telephone handset.<sup>47</sup> A detainee who has a visitor is notified prior to the visitor’s arrival.<sup>48</sup> At the time of the scheduled visit, the detainee goes to the “video booth” in the common area of his or her unit.<sup>49</sup> The video booths are equipped in the same manner as the

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<sup>35</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>36</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.5.

<sup>37</sup> Notes of delegation member (b)(6) on observation. A copy of the McHenry County Jail visitation schedule (“Visitation Schedule”) is attached to this report.

<sup>38</sup> Visitation Schedule.

<sup>39</sup> Visitation Schedule.

<sup>40</sup> Visitation Schedule; notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)

<sup>41</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)

<sup>42</sup> Notes of delegation member (b)(6) on observation of visitation log and on conversation with Lt. (b)(6), (b)(7)

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

<sup>44</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7) McHenry Detainee Handbook, p.15 (“Visitors must be in appropriate and socially accepted attire.”).

<sup>45</sup> Notes of delegation member (b)(6) on observation of videoconferencing room, and conversation with Lt. (b)(6), (b)(7)

<sup>46</sup> Notes of delegation member (b)(6), on observation of metal detector and videoconferencing room, and conversation with Lt. (b)(6), (b)(7)

<sup>47</sup> Notes of delegation member (b)(6), on observation of videoconferencing room.

<sup>48</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7); notes of delegation members (b)(6), on interview with Detainee (b)(6), (b)(7)

<sup>49</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)

videoconferencing room on the first floor, and are not enclosed.<sup>50</sup> There is one video booth per unit on the third floor of the facility (which consists entirely of male ICE detainees).<sup>51</sup> One detainee noted that the video screen cuts in and out frequently during visits, which is very disruptive to visitation with friends and family members.<sup>52</sup>

The visitation schedule notes: “Inmates get one 15 min. visit per week. Any Inmate who is a worker within the jail gets two 15 min. visits per week.”<sup>53</sup> Visits were formerly 30 minutes long, but due to a strain on visitation space, the visits were cut down to 15 minutes.<sup>54</sup> The Facility is currently looking into whether lengthening the visits is a viable option.<sup>55</sup> The McHenry Detainee Handbook does not list the length or frequency of visits.<sup>56</sup>

The delegation is concerned about the short length of visits with friends and family members, as it is one-half of the length of time recommended by the *Standards*.<sup>57</sup> Several detainees interviewed by delegation members expressed dissatisfaction with the length of the visits. One detainee noted that his sister traveled a long way to see him, and that the 2 minute warning and termination of the 15 minute visit made the visit feel insufficient and rushed.<sup>58</sup> Another detainee also expressed dissatisfaction with the 15 minute time limit on visits and the video visitation system.<sup>59</sup> A third detainee noted that if a visitor is late, even by a few minutes, the visit is canceled by the officer at the reception desk.<sup>60</sup>

Minors are allowed to visit, as long as they are supervised by a parent or legal guardian.<sup>61</sup> Immediate family members who are held at the Facility “may be allowed to visit with each other during normal visiting hours.”<sup>62</sup> Detainees in administrative or disciplinary housing are afforded visitation in accordance with the general visitation policies, provided they do not create problems during the visit.<sup>63</sup> Furthermore, “[a]ny disruptive conduct by either party

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<sup>50</sup> Notes of delegation member (b)(6) on observation of video booth in unit on third floor of facility.

<sup>51</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)

<sup>52</sup> Notes of delegation members (b)(6) on interview with Detainee (b)(6)

<sup>53</sup> Visitation Schedule.

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

<sup>55</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>56</sup> McHenry Detainee Handbook, p.15 (“Detainees can ask the Housing Unit Officer the length of the visit as well as the frequency of the visits.”).

<sup>57</sup> Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

<sup>58</sup> Notes of delegation members (b)(6), on interview with Detainee (b)(6), (b)(7)c

<sup>59</sup> Notes of delegation members (b)(6) on interview with Detainee (b)(6)

<sup>60</sup> Notes of delegation members (b)(6), on interview with Detainee (b)(6), (b)(7)c

<sup>61</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7) McHenry Detainee Handbook, p.15.

<sup>62</sup> McHenry Detainee Handbook, p.15.

<sup>63</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)

[during a visit] will result in the termination of the visit and may have an adverse affect [sic] on future visits.”<sup>64</sup>

Detainees may not receive any personal property during visitation, and they are prohibited from keeping virtually any property in their cells, save any religious texts, such as a Bible, Torah, or Koran.<sup>65</sup> All of a detainee’s personal property is retained at a processing facility in nearby Broadview.<sup>66</sup> A detainee can receive money in his or her inmate account if a donor mails funds to the Facility.<sup>67</sup> Upon receipt, both the donor and the detainee are notified that the account has been credited.<sup>68</sup> MCACF is planning to implement a system in which visitors may deposit money in an inmate’s account at a kiosk that will be located at the front of the facility.<sup>69</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>70</sup> To ensure reasonable access, facilities must provide at least one telephone for detainee use for every 25 detainees held, and maintain these detainee telephones in proper working order.<sup>71</sup> The *Standards* also require that facilities provide telephone access rules in writing to each detainee upon admittance, and post these rules where detainees may easily see them.<sup>72</sup> The *Standards* provide that facilities shall not restrict the number of calls a detainee places to his/her legal representatives, nor limit the duration of such calls by rule or automatic cutoff, unless necessary for security purposes or to maintain orderly and fair access to telephones.<sup>73</sup> If time limits for these calls are necessary, they shall be no shorter than twenty minutes, and the detainee should be allowed to continue the call at the first available opportunity.<sup>74</sup>

**MCACF does not fully meet this section of the Standards; telephone calls are cut off after 15 minutes.** Each Pod has either four phones, two phones, or one phone, depending on the number of detainees housed in the Pod.<sup>75</sup> The total number of phones was

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<sup>64</sup> McHenry Detainee Handbook, p.15.

<sup>65</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7), notes of delegation member (b)(6) (b)(6) on conversation with Lt. (b)(6), (b)(7)

<sup>66</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6)

<sup>67</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)

<sup>68</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)

<sup>69</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6)

<sup>70</sup> Detentions Operations Manual, Detainee Services, Standard 16, Sections I & III.A.

<sup>71</sup> Detentions Operations Manual, Detainee Services, Standard 16, Sections III.C & III.D.

<sup>72</sup> Detentions Operations Manual, Detainee Services, Standard 16, Section III.B.

<sup>73</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

<sup>74</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

<sup>75</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

approximately one phone per every fourteen detainees.<sup>76</sup> If the phones are not in working order, the detainees can inform the Housing Unit Officer on duty and receive assistance.<sup>77</sup> The Detainee Handbook notifies detainees of telephone access rules, and each phone has written instructions for making collect calls and free calls to certain pre-programmed numbers.<sup>78</sup> However, all telephone calls made by detainees are automatically disconnected after fifteen minutes.<sup>79</sup> The phones are turned on after the Pod's daily inspection, usually around 9:30 a.m., and are generally available until approximately 10:30 p.m., except during mealtimes and lockdown.<sup>80</sup> However, the Housing Unit Officers will not turn on the phones if the Pod does not pass its daily inspection.<sup>81</sup> Delegation member (b)(6) requested to use one of the phones, but her request was denied.<sup>82</sup>

## 2. Direct vs. Collect Calls

The *Standards* allow facilities to generally limit calls to collect calls.<sup>83</sup> However, facilities must permit detainees to make direct calls to the local immigration court and the Board of Immigration Appeals, Federal and State courts where the detainee is or may become involved in a legal proceeding, consular officials, legal service providers (in pursuit of legal representation or consultation), government offices (to obtain documents relevant to his/her immigration case), and in personal or family emergencies.<sup>84</sup> Staff will allow detainees to make such calls as soon as possible after the request.<sup>85</sup> Facilities "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>86</sup>

**MCACF meets this section of the Standards.** Outgoing calls are generally limited to collect calls. Detainees the delegation interviewed reported that the costs are often quite high and cellular phones cannot always receive collect calls.<sup>87</sup> There is a three-page list next to each set of phones (last updated on June 7, 2006), that provides instructions in English,

<sup>76</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)c (calculated by dividing the total number of reported detainees (196) by total number of phones (14)).

<sup>77</sup> Notes of delegation member (b)(6), on interview with detainee (b)(6), (b)(7)c.

<sup>78</sup> McHenry Detainee Handbook, p. 12-13; observations of delegation member (b)(6).

<sup>79</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c.

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

<sup>81</sup> McHenry Detainee Handbook, p. 12; notes of delegation members (b)(6) on interview with Detainee (b)(6), (b)(7)c.

<sup>82</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c.

<sup>83</sup> Detentions Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>84</sup> Detentions Operations Manual, Detainee Services, Standard 16, Sections III.E.1-6.

<sup>85</sup> Detentions Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>86</sup> Detentions Operations Manual, Detainee Services, Standard 16, Section III.E.

<sup>87</sup> Notes of delegation member (b)(6), on conversation with ICE Deportation Officer (b)(6), (b)(7)c; notes of delegation members (b)(6) on interview with Detainee (b)(6), (b)(7)c; notes of delegation members (b)(6) on interview with Detainee (b)(6), (b)(7)c.

Spanish, Vietnamese, Chinese, and Creole on how to make free pre-programmed calls to the Department of Homeland Security, the Immigration Court Information System, free legal service providers, and consulates in several different states and countries.<sup>88</sup>

### 3. Privacy for Telephone Calls on Legal Matters

The *Standards* require that facilities ensure privacy for detainees' telephone calls regarding legal matters.<sup>89</sup> Facility staff shall not electronically monitor detainee telephone calls on their legal matters, absent a court order.<sup>90</sup> Facilities shall have a written policy on the monitoring of telephone calls.<sup>91</sup> If detainees' telephone calls are monitored, facilities shall notify detainees in the detainee handbook or equivalent, and place a notice at each monitored telephone, stating that detainee calls are subject to monitoring and providing the procedure for obtaining an unmonitored call to a court, legal representative, or for the purposes of obtaining legal representation.<sup>92</sup>

**MCACF does not meet this section of the *Standards*; telephone calls are not private.** Detainees are unable to make private calls because the phones where detainees can make outgoing calls are located in communal living areas, very close to one another with no privacy safeguards or partitions.<sup>93</sup> There are opportunities for detainees to have private phone calls with their attorneys, but only if the calls are initiated by the attorney, and are set up in advance.<sup>94</sup> Then, the detainee is allowed to speak with the attorney using the telephones in the holding area on the first floor, and thus some privacy is ensured.<sup>95</sup> According to the Facility staff, no phone calls are monitored.<sup>96</sup>

### 4. Incoming Calls and Messages

The *Standards* advise that facility staff take and deliver messages from attorneys and emergency incoming telephone calls to detainees as promptly as possible, and no less than three times a day.<sup>97</sup> If a facility receives an emergency telephone call for a detainee, the *Standards* suggest that the facility obtain the caller's name and number and permit the detainee to return the emergency call as soon as possible.<sup>98</sup> Indigent detainees shall be allowed to make a

<sup>88</sup> Observations of delegation member (b)(6)

<sup>89</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.J.

<sup>90</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.J.

<sup>91</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.K.

<sup>92</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.K.

<sup>93</sup> Observation of delegation member (b)(6)

<sup>94</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6)

<sup>95</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>96</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6)

<sup>97</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

<sup>98</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

free return emergency call.<sup>99</sup> Upon a detainee’s request, facilities shall make special arrangements permitting the detainee to speak by telephone with an immediate family member detained in another facility.<sup>100</sup> The facility shall liberally grant request for inter-facility family calls to discuss legal matters, and afford privacy to these conversations to the extent possible.<sup>101</sup>

**MCACF meets this section of the *Standards*.** Facility staff takes and deliver messages from attorneys and emergency messages from family members as promptly as possible, usually that same day.<sup>102</sup> If on-site ICE Deportation Officer (b)(6), (b)(7)c becomes aware of a detainee’s family emergency, including an emergency involving a family member detained in another facility, and the detainee makes a request to make a free call to a family member, Officer (b)(6), (b)(7) usually will grant the detainee’s request.<sup>103</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>104</sup> These conditions shall be documented.<sup>105</sup>

**MCACF meets this section of the *Standards*.** Detainees in segregated areas for disciplinary reasons are generally permitted to make one five minute call per week.<sup>106</sup> Consulate and legal telephone calls will not be restricted; however, detainees must complete a request form if telephone privileges are restricted.<sup>107</sup>

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

#### 1. Access to the Library

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>108</sup> The *Standards* state that each facility shall have a

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<sup>99</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.I.

<sup>100</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.H.

<sup>101</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.H.

<sup>102</sup> Notes of delegation member (b)(6), on conversation with ICE Deportation Officer (b)(6), (b)(7)c notes of delegation member (b)(6) on interview with Detainee (b)(6), (b)(7)c notes of delegation members (b)(6) and (b)(6), on interview with Detainee (b)(6), (b)(7)c

<sup>103</sup> Notes of delegation member (b)(6), on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>104</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

<sup>105</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

<sup>106</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)

<sup>107</sup> McHenry Detainee Handbook at 12.

<sup>108</sup> Detention Operations Manual, Detainee Services, Standard 1, Section I.

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>109</sup> Each detainee shall be permitted to use the law library for a minimum of five hours per week.<sup>110</sup>

**MCACF substantially meets this section of the *Standards*, although legal materials are only available on the computer and detainees are unable to print legal materials from the computer.** There are two distinct library areas at MCACF: the pod computer and a law library. Each pod housing ICE detainees has a networked laptop computer with which detainees may access online legal materials.<sup>111</sup> The pod computer provides free access to LexisNexis.<sup>112</sup> English-language directions for basic searches are posted next to the computer.<sup>113</sup> Detainee classifications have no bearing on access to legal materials.<sup>114</sup> Detainees reported having no problems with securing sufficient time to use the pod computers.<sup>115</sup> However, detainees are not able to print anything other than their own letters, briefs, and filings, *i.e.*, no case law, statutes, or codes may be printed.<sup>116</sup>

MCACF also has a law library,<sup>117</sup> but it does not contain any relevant immigration resources.<sup>118</sup> Few if any detainees appear to use it.<sup>119</sup> Detainees must submit a written request in order to access the law library.<sup>120</sup> One detainee reported that he was allowed into the library only to be rushed out after five minutes.<sup>121</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>122</sup> Furthermore, it must be large enough "to

<sup>109</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

<sup>110</sup> Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

<sup>111</sup> Observations of delegation member (b)(6)

<sup>112</sup> Notes of delegation member (b)(6) on conversation with Corrections Officer (b)(6), (b)(7)c

<sup>113</sup> Observations of delegation member (b)(6)

<sup>114</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>115</sup> Notes of delegation member (b)(6) on conversations with Detainees (b)(6), (b)(7)c

<sup>116</sup> Observations of delegation member (b)(6) notes of delegation member (b)(6) on conversations with Detainee (b)(6), (b)(7)c and Corrections Officer (b)(6), (b)(7)c

<sup>117</sup> Observations of delegation member (b)(6)

<sup>118</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c The law library is geared to criminal proceedings.

<sup>119</sup> Notes of delegation member (b)(6) on conversations with detainee (b)(6), (b)(7)c and Corrections Officer (b)(6), (b)(7)c

<sup>120</sup> McHenry Detainee Handbook at 14.

<sup>121</sup> Notes of delegation member (b)(6) on conversation with Detainee (b)(6), (b)(7)c

<sup>122</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

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>123</sup>

**MCACF substantially meets this section of the *Standards*.** The pod computer is in a well-lit area, positioned on a large table suitable for use as a workspace.<sup>124</sup> The pod computer is in the living quarters of the detainees, and is only relatively isolated from noisy areas,<sup>125</sup> although a television is approximately twenty-five feet away from the computer.<sup>126</sup> The law library is well-lit, isolated from noisy areas, and provides a sufficient number of tables and chairs.<sup>127</sup>

### 3. Materials Identified in the *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>128</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>129</sup> Damaged or stolen materials must be promptly replaced.<sup>130</sup>

**MCACF does not fully meet this section of the *Standards*. MCACF provides its immigration detainees with computer access to LexisNexis; however, no hardbound legal resources are available.**<sup>131</sup> While LexisNexis provides access to numerous legal materials, as well as current statutory and regulatory information, it is unclear whether the secondary resources listed as required by Attachment A are available on the computer. No summary of holdings or resources was available for the delegation’s review.<sup>132</sup>

### 4. Computer Access, Equipment and Holdings

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>133</sup>

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<sup>123</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

<sup>124</sup> Observations of delegation member

<sup>125</sup> Observations of delegation member

<sup>126</sup> Observations of delegation member

<sup>127</sup> Observations of delegation member

<sup>128</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

<sup>129</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

<sup>130</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.F.

<sup>131</sup> Notes of delegation member [REDACTED], on conversation with Corrections Officer [REDACTED] (b)(6), (b)(7)

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

<sup>133</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.B.



**MCACF meets this section of the *Standards*.** There is one computer per pod.<sup>134</sup> Adequate supplies are available at each workstation.<sup>135</sup> One detainee noted reluctance among officers to grant access to the LexisNexis-enabled computers.<sup>136</sup> However, most detainees reported they were able to access the computers without complication.<sup>137</sup>

## 5. 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>138</sup>

**MCACF meets this section of the *Standards*.** Detainees are allowed to assist each other with both legal research and substantive legal issues related to their cases.<sup>139</sup>

## 6. Assistance to Non-English Speaking Detainees

The *Standards* provide that detainees “must be provided with more than access to a set of English-language law books.”<sup>140</sup>

**MCACF does not meet this section of the *Standards*.** One detainee reported that there are no books (neither legal nor non-legal) in Spanish in the law library--a severe detriment to him because he could only read and write in Spanish.<sup>141</sup>

## 7. Access to Personal Legal Materials

The *Standards* provide that detainees shall be allowed to “retain all personal legal material.”<sup>142</sup>

**MCACF does not meet this section of the *Standards*.** The detainees’ inability to print and retain relevant codes, statutes, and case law impairs their right to retain materials.<sup>143</sup>

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<sup>134</sup> Observations of delegation member [REDACTED]

<sup>135</sup> Observations of delegation member [REDACTED] notes of delegation member [REDACTED] on conversation with Detainee [REDACTED]

<sup>136</sup> Notes of delegation member [REDACTED] on conversation with Detainee [REDACTED]

<sup>137</sup> Notes of delegation members [REDACTED] on conversations with Detainees [REDACTED]

<sup>138</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.K.

<sup>139</sup> Notes of delegation member [REDACTED] on conversations with Detainees [REDACTED]

<sup>140</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.L.

<sup>141</sup> Notes of delegation member [REDACTED] on conversation with Detainee [REDACTED]

<sup>142</sup> Detention Operations Manual, Detainee Services, Standard 1, Section III.K.

<sup>143</sup> See Section C.1, *supra*.

**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>144</sup> Informational posters are to be prominently displayed in the housing units at least forty-eight hours in advance of a scheduled presentation.<sup>145</sup> While the presentations are open to all detainees, the facility “may limit the number of detainees at a single session.”<sup>146</sup> “The facility shall select and provide an environment conducive to the presentation, consistent with security.”<sup>147</sup> In addition, detainees shall have regular opportunities to view an “INS-approved videotaped presentation on legal rights.”<sup>148</sup>

**MCACF does not fully meet this section of the *Standards*; posters are not posted and there is currently no Know Your Rights video available.** According to facility personnel, there are no restrictions on group rights presentations.<sup>149</sup> MCACF has legal rights presentations scheduled every two months and the presentations are always done by the National Immigrant Justice Center (NIJC).<sup>150</sup> An outside group can schedule a presentation by contacting the ICE Field Office Director.<sup>151</sup> The number of detainees at each presentation is limited; however, there are four sessions held during the day.<sup>152</sup> Each session lasts approximately 2 hours.<sup>153</sup> The presentations are open to all detainees, including those in segregation.<sup>154</sup> The presentations are given in English, Chinese and Spanish.<sup>155</sup> Many of the detainees interviewed attended a legal rights presentation and had the opportunity to speak with a legal representative afterwards.<sup>156</sup>

There is no written notice posted about when the presentations will take place.<sup>157</sup> ICE Deportation Officer (b)(6), (b)(7) said he lets the detainees know verbally in advance of the presentation. However, detainees have reported that they have only received notification from

<sup>144</sup> Detention Operations Manual, Detainee Services, Standard 9, Section I.

<sup>145</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

<sup>146</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.C.

<sup>147</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.E.

<sup>148</sup> Detention Operations Manual, Detainee Services, Standard 9, Section III.I.

<sup>149</sup> Notes of delegation member (b)(6) on conversation with (b)(6), (b)(7)c

<sup>150</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>151</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>152</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>153</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>154</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>155</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>156</sup> Notes of delegation member (b)(6) on conversations with detainees (b)(6), (b)(7)c

<sup>157</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

other prisoners, not from MCACF officials.<sup>158</sup> Further, there is not a “Know Your Rights” video available for detainees to view.<sup>159</sup> ICE Deportation Officer (b)(6), (b)(7) anticipates having a video available in the near future.<sup>160</sup>

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

##### A. Correspondence and Other Mail

##### 1. Inspection of Mail & Contraband

The *Standards* require that detainees be allowed to send and receive correspondence and other mail in a timely manner, subject to limitations required for the safety, security, and orderly operation of the facility.<sup>161</sup> The quantity of correspondence a detainee may receive or send at his/her own expense should not be limited.<sup>162</sup> Incoming mail shall be distributed within 24 hours of receipt by the facility.<sup>163</sup> Outgoing mail shall be delivered to the postal service no later than the day after it is received.<sup>164</sup>

General correspondence shall normally be opened and inspected for contraband in the presence of the detainee.<sup>165</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>166</sup> Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but it cannot be read or copied.<sup>167</sup> Outgoing special correspondence cannot be opened, inspected, or read.<sup>168</sup> When an officer finds an item that must be removed from a detainee’s mail, he/she shall make a written record, and the affected detainee(s) shall be notified and provided with a receipt for the confiscated or withheld items.<sup>169</sup>

The *Standards* require that facilities provide detainees with writing paper, writing implements, and envelopes at no cost to the detainees.<sup>170</sup> Indigent detainees will be permitted to

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<sup>158</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c; notes of delegation member (b)(6), on conversation with detainee (b)(6), (b)(7)c

<sup>159</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>160</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>161</sup> Detention Operations Manual, Detainee Services, Standard 3, Section I.

<sup>162</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.A.

<sup>163</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.C.

<sup>164</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.C.

<sup>165</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.E.

<sup>166</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.E.2.

<sup>167</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.E.2.

<sup>168</sup> Detention Operations Manual, Detainee Services, Standard 3, Sections III.F.2.

<sup>169</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.G & H.

<sup>170</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.J.

mail at least five pieces of special correspondence and three pieces of general correspondence each week.<sup>171</sup> Finally, the *Standards* require that facilities notify detainees of specific information regarding correspondence policies in their detainee handbook and post these rules in each housing area.<sup>172</sup>

**MCACF substantially meets this section of the *Standards*; however, outgoing special correspondence is inspected.** Outgoing mail is picked up from the detainees by the Housing Unit Officers and delivered daily to the Post Office.<sup>173</sup> Incoming mail is inspected by a Housing Unit Officer and distributed to detainees the day it is received.<sup>174</sup> According to Lt. (b)(6), (b)(7)c all incoming and outgoing mail, including special correspondence, is opened and inspected for contraband.<sup>175</sup> The McHenry Detainee Handbook states that “All outgoing mail is to be turned in with the envelope unsealed so that it may be inspected for contraband.”<sup>176</sup> However, the McHenry Detainee Handbook also states that “outgoing special correspondence will not be opened, inspected, or read.”<sup>177</sup> If contraband is found, the Housing Unit Officer records the item in a logbook designed for that purpose, returns the item to the sender, sends a receipt to the detainee, and informs both sender and detainee of which item was confiscated and why it was confiscated.<sup>178</sup> Incoming special correspondence is opened in front of the detainee but never read.<sup>179</sup>

There is no limit on the amount of mail a detainee can send or receive,<sup>180</sup> although detainees are only allowed to keep ten letters or cards in their cells.<sup>181</sup> Detainees can mail free of charge up to five pieces of special correspondence and three pieces of general correspondence per week. Detainees can purchase additional stamped envelopes from the facility Commissary.<sup>182</sup>

Indigent detainees receive writing paper, writing implements, envelopes and stamps at no cost.<sup>183</sup> According to the McHenry Detainee Handbook, indigent detainees may

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<sup>171</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.I.

<sup>172</sup> Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

<sup>173</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)c

<sup>174</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)c

<sup>175</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)c

<sup>176</sup> McHenry Detainee Handbook at 4. (b)(6), (b)(7)c

<sup>177</sup> McHenry Detainee Handbook at 4.

<sup>178</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)c

<sup>179</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)c notes of delegation members (b)(6), (b)(7)c on interview with Detainee (b)(6), (b)(7)c

<sup>180</sup> McHenry Detainee Handbook at 3.

<sup>181</sup> McHenry Detainee Handbook at 3–4.

<sup>182</sup> Notes of delegation member (b)(6), on interview with detainee (b)(6), (b)(7)c

<sup>183</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)c notes of delegation members (b)(6), (b)(7)c on interview with detainee (b)(6), (b)(7)c

send all legal correspondence free of charge; however, the staff lieutenant, reported that indigent detainees receive ten stamped envelopes each week to use for general or special correspondence.<sup>184</sup>

Finally, the McHenry Detainee Handbook notifies detainees of specific information pertaining to correspondence and other mail, including the definition of special correspondence, the fact that detainees may not send or receive packages without advance approved arrangements, the rules for providing indigent and certain other detainees free postage, and the detainees' addresses at the Facility.<sup>185</sup>

## B. Recreation

The *Standards* require that all detainees have access to recreational programs and activities, under conditions of security and safety.<sup>186</sup> Detainees should be housed in facilities with outdoor recreation.<sup>187</sup> If a facility only provides indoor recreation, detainees must have access to the recreation area for at least one hour per day, including exposure to natural light.<sup>188</sup> Detainees should have access to “fixed and movable equipment,” including opportunities for cardiovascular exercise, and games and television in dayrooms.<sup>189</sup>

**MCACF does not fully meet this section of the *Standards*: there is no outdoor recreation, recreation time is apparently limited, and there is no fixed or movable exercise equipment.** MCACF has two indoor recreation rooms that include some exposure to natural light;<sup>190</sup> however, there is no outdoor recreation. ICE suggests that detainees be eligible for transfer after six months from a facility without outdoor recreation.<sup>191</sup> In accordance with this policy, the ICE deportation officer informs all detainees that they are eligible for a transfer to a facility with access to outdoor recreation after serving six months at MCACF.<sup>192</sup> However, according to ICE Deportation Officer (b)(6), (b)(7) in several instances detainees who satisfy this six month threshold have decided to remain at the McHenry County facility.<sup>193</sup>

<sup>184</sup> McHenry Detainee Handbook at 4; notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>185</sup> McHenry Detainee Handbook at 2–4.

<sup>186</sup> Detention Operations Manual, Detainee Services, Standard 13, Section I.

<sup>187</sup> Detention Operations Manual, Detainee Services, Standard 13, 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>188</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

<sup>189</sup> Detention Operations Manual, Detainee Services, Standard 13, Section III.G.

<sup>190</sup> Notes of delegation member (b)(6) on conversation with Lts. (b)(6), (b)(7)c

<sup>191</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7) Detention Operations Manual, Detainee Services, Standard 13, Section III.C.

<sup>192</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>193</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

Neither recreation room contains any fixed or movable equipment, which is in violation of the *Standards*.<sup>194</sup> Further, there is no set schedule for use of either recreation room.<sup>195</sup> Rather, detainees are permitted to go into the recreation facilities upon request and can stay for an hour at a time, sometimes longer depending on the demands for the room.<sup>196</sup> Several of the detainees indicated that this system does not result in adequate access to the recreation facilities as their requests to go into the recreational areas are often denied.<sup>197</sup> One detainee indicated that in her eight month stay at MCACF, she was only permitted to go to the recreation facility once for half of an hour.<sup>198</sup> She stated that she asked repeatedly for permission to go into the recreation facility and was turned down.<sup>199</sup>

In addition to the recreation rooms, each Pod that houses detainees contains its own dayroom.<sup>200</sup> The dayrooms are common rooms where the detainees can socialize, eat their meals, use the phones, use the laptop computers for legal research, watch cable television and play board games.<sup>201</sup> The dayrooms however also do not have any fixed or movable exercise equipment.<sup>202</sup>

### C. Access to Medical Care

The *Standards* provide that all detainees shall have access to medical care that promotes health and well being.<sup>203</sup> Upon arrival, each detainee should be given an initial medical screening and thereafter should receive primary medical care, routine dental check-ups, and emergency care.<sup>204</sup> Each facility is required to have regularly scheduled “sick calls” when medical personnel are available to examine detainees who have requested medical services.<sup>205</sup> If the facility has over 200 detainees, there must be sick calls 5 days per week.<sup>206</sup> The facility is required to have signed and dated consent forms that must be obtained from a detainee before medical examination is given (unless in emergency circumstances).<sup>207</sup> The *Standards* also

<sup>194</sup> Observations of delegation member (b)(6)

<sup>195</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>196</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>197</sup> Notes of delegation member (b)(6), (b)(7)c on interviews with detainee (b)(6), (b)(7)c and detainee (b)(6), (b)(7)c

<sup>198</sup> Notes of delegation member (b)(6) on interviews with detainee (b)(6), (b)(7)c

<sup>199</sup> Notes of delegation member (b)(6) on interviews with detainee (b)(6), (b)(7)c

<sup>200</sup> Observations of delegation member (b)(6)

<sup>201</sup> Notes of delegation member (b)(6) on conversation with Lts. (b)(6), (b)(7)c observations of delegation member (b)(6)

<sup>202</sup> Observations of delegation member (b)(6)

<sup>203</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section I.

<sup>204</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section D.

<sup>205</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section F.

<sup>206</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section F.

<sup>207</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section C.

require that translation services be provided for every detainee.<sup>208</sup> Finally, copies of health records may be released to a detainee and any person designated by the detainee with written authorization.<sup>209</sup>

**It is unclear whether MCACF meets this section of the *Standards*; detainees reported that treatment is inadequate.** While the employees of the facility assured us of the quality of the medical care given to detainees, there was much dissent from the interviewed detainees regarding the quality of care received. Health Services Administrator (b)(6) and physician Dr. (b)(6) stated that all detainees receive initial physical exams during booking and then receive yearly check-ups.<sup>210</sup> They also stated that sick-calls were scheduled five days a week and a nurse was on call 24-hours a day.<sup>211</sup> Other staff includes one psychiatrist who comes once a week, a nurse practitioner who comes four times a week, and Dr. (b)(6) who comes several times a week.<sup>212</sup> Emergency care is provided by a local hospital that is two miles from the Facility.<sup>213</sup> Medication is handed out three times a day.<sup>214</sup>

The McHenry Detainee Handbook states that a detainee who wishes to see a nurse must fill out a “McHenry County Detainee Request Form” and turn it into the Housing Unit Officer who will then forward it to the medical staff.<sup>215</sup> Health Services Administrator Bute and Dr. (b)(6) both asserted that requested procedures are approved within one day of submission to the Division of Immigration Health Services (“IHS”) in Washington, D.C. and that general medical care is good.<sup>216</sup> However, several detainees raised concerns about the quality of medical care. One diabetic detainee described an incident where she complained about chest pains, was treated twice with different medications, and was left with a numb left arm forcing her to stop using the medication.<sup>217</sup> Another detainee was dissatisfied that when he experienced problems urinating for three weeks he simply received painkillers, and was concerned about Dr. (b)(6)

<sup>208</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section C.

<sup>209</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section C.

<sup>210</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6) and Dr. (b)(6)

<sup>211</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>212</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>213</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>214</sup> McHenry Detainee Handbook at 10 (noting that detainees in lockdown will be called out for their medications).

<sup>215</sup> McHenry Detainee Handbook at 10.

<sup>216</sup> Notes of delegation member (b)(6), on conversation with Health Services Administrator (b)(6) McHenry Detainee Handbook at 10.

<sup>217</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c (who also claimed that the doctor is generally not good and has not helped her diabetes other than monitoring it once a week with blood tests).

manner with detainees.<sup>218</sup> Another detainee has been experiencing chronic pain in her arm, for which Dr. (b)(6) prescribed Motrin.<sup>219</sup> This same detainee has filed two separate requests to see a specialist for the pain in her arm (up to three months before our visit to the Facility) and both of the requests have gone unanswered.<sup>220</sup>

Consent forms are given to all detainees upon their arrival and cover medical care received while at the Facility.<sup>221</sup> For specific procedures detainees are required to sign subsequent consent forms.<sup>222</sup> Translation services are provided through the AT&T Language Line, which provides translation services for all languages.<sup>223</sup> Also, one free copy of health records are available to all detainees, and are available to people authorized by the detainee for \$.05/page.<sup>224</sup>

**D. Access to Dental Care**

The *Standards* require that an initial dental screening be performed within fourteen hours of a detainee’s arrival.<sup>225</sup> The facility should provide emergency dental treatment when necessary (including procedures aimed at the immediate relief of pain, trauma, and acute oral infection).<sup>226</sup> Routine dental treatment is suggested for all long-term detainees (defined as those whose stay exceeds six months).<sup>227</sup>

**It is unclear whether MCACF meets this section of the *Standards*.** The McHenry Detainee Handbook states that “[d]ental treatment will be provided on an emergency basis during the first 12 months [and if a detainee is] incarcerated for a period of more than 12 months, routine dental care will be given subject to approval by ICE.”<sup>228</sup> Health Services Administrator

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<sup>218</sup> Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>219</sup> Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>220</sup> Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>221</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>222</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>223</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>224</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6) *see also* McHenry Detainee Handbook at 10 (stating the procedure by which detainees may request copies of medical records).

<sup>225</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section C.

<sup>226</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section C.

<sup>227</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section C.

<sup>228</sup> McHenry Detainee Handbook at 11.



(b)(6), (b)(7) stated that the facility is attempting to get a dentist to come to the facility once a week.<sup>229</sup> Health Services Administrator (b)(6) stated that all detainees receive a dental exam upon admission and a dental check-up once a year.<sup>230</sup> One detainee did state that he received a dental exam upon arrival,<sup>231</sup> but several other detainees stated that they never received any dental exam in the four to six months since arriving at the facility.<sup>232</sup> One detainee reported that upon arrival he complained of a toothache and asked for dental care, but had to wait one month for his request to be honored.<sup>233</sup> Another detainee reported that he requested dental care for a toothache and was seen within three to four days, but he believed the treatment he received was inadequate.<sup>234</sup> Finally, many detainees complained that the toothbrushes and toothpaste they are given are inadequate for basic oral sanitation.<sup>235</sup> One detainee described the toothbrushes as a pre-pasted finger cot that slips onto the detainee’s fingers and is used to brush the teeth.<sup>236</sup> Another detainee reported that she and her podmates have written grievances regarding the toothbrush/toothpaste issues but have not received any response to date.<sup>237</sup>

### E. Hunger Strike

According to the *Standards*, specific procedures should be in place so that qualified medical personnel can verify that a person on a hunger strike is acting according to his/her will and is not exhibiting signs of mental illness.<sup>238</sup> During a hunger strike, the detainee’s mental and vital signs should be monitored every 24 hours.<sup>239</sup> Facilities are also required to make every effort to get informed consent from detainees on hunger strikes.<sup>240</sup>

**MCACF meets this section of the *Standards*.** If a detainee misses several meals in a row, then McHenry contacts the medical department whose officers monitor meal intake.<sup>241</sup>

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<sup>229</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>230</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>231</sup> Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>232</sup> Notes of delegation members (b)(6), on conversation with detainee (b)(6), (b)(7)c  
 (b)(6), (b)(7); notes of delegation members (b)(6), on conversation with detainee (b)(6), (b)(7)c  
 notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>233</sup> Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>234</sup> Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>235</sup> Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c notes of delegation members (b)(6) on conversation with detainee (b)(7)c

<sup>236</sup> Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>237</sup> Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)  
 (b)(6), (b)(7)

<sup>238</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section D.

<sup>239</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section D.

<sup>240</sup> Detention Operations Manual, Health Services Standard, Standard 2, Section D.

<sup>241</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)  
 (b)(6)

Vital signs and mental state are monitored daily by both a physician and a mental health counselor after three days of not eating (defined as consuming nothing but water).<sup>242</sup> Force-feeding only occurs if the detainee is severely dehydrated and cannot function on her own.<sup>243</sup>

**F. Detainee Classification System**

The *Standards* require that detention facilities use a classification system and physically separate detainees in different categories.<sup>244</sup> Detainees must be assigned to the least restrictive housing unit consistent with facility safety and security.<sup>245</sup> A detainee’s classification is to be determined on “objective” criteria, including criminal offenses, escape attempts, institutional disciplinary history, violent incidents, etc.<sup>246</sup> Classification is required in order to separate detainees with no or minimal criminal records from inmates with serious criminal records.<sup>247</sup> Detainees with a history of assaultive or combative behavior are not to be housed with non-assaultive detainees.<sup>248</sup>

All facility classification systems shall allow classification level to be re-determined and include procedures by which new arrivals can appeal their classification levels.<sup>249</sup> Finally, the detainee handbook’s section on classification must include (1) an explanation of the classification levels, with the conditions and restrictions applicable to each, and (2) the procedures by which a detainee may appeal his classification.<sup>250</sup>

**MCACF does not appear to meet this section of the *Standards*; there does not appear to be a procedure to appeal a classification, and MCACF houses high-risk detainees with lower-risk detainees.** MCACF uses the classification determined at Broadview;<sup>251</sup> the Facility does not re-classify ICE detainees upon their arrival from Broadview.<sup>252</sup> Both the general inmate population and the ICE detainees are classified using three different Levels of classification.<sup>253</sup> Housing assignments are based on classification level.<sup>254</sup> Males and females

<sup>242</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>243</sup> Notes of delegation member (b)(6) on conversation with Health Services Administrator (b)(6)

<sup>244</sup> Detention Operations Manual, Detainee Services, Standard 4, Section I.

<sup>245</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.F.

<sup>246</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

<sup>247</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.A & E.

<sup>248</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.F.

<sup>249</sup> Detention Operations Manual, Detainee Services, Standard 4, Sections III.G & H.

<sup>250</sup> Detention Operations Manual, Detainee Services, Standard 4, Section III.I.

<sup>251</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6)

<sup>252</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7) Broadview is the central processing center for immigration detainees.

<sup>253</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6) (McHenry facility’s classification officer).

are housed on separate floors (females are on the second floor, males are on the third floor of the facility).<sup>255</sup> ICE detainees are not housed with the general inmate population.<sup>256</sup>

The McHenry Detainee Handbook notes that “[a]ll detainees are classified upon arrival,”<sup>257</sup> and details the three Levels of classification. Level One classification applies to detainees without any convictions for violent felonies.<sup>258</sup> Detainees classified at Level Two cannot have a “pattern or history” (both terms are further defined) of violent assaults, whether convicted or not.<sup>259</sup> Level Three classification applies to detainees who are considered in a “high-risk category.”<sup>260</sup> Detainees referred to the classifications either by number<sup>261</sup> or by color.<sup>262</sup> The McHenry Detainee Handbook states that blue wristbands are for Level 1 detainees, orange for Level 2, and a red for Level 3.<sup>263</sup> One detainee indicated that his classification was “red,” and that he lived with “red and orange” detainees,<sup>264</sup> indicating that the MCACF houses its highest risk detainees with lower-risk detainees.

ICE Deportation Officer (b)(6), (b)(7) stated that a detainee is classified at Broadview based primarily on his or her criminal history and escape attempts, with consideration given to the detainee’s efforts at cooperation and any special medical conditions.<sup>265</sup> He also referenced a “worksheet” which is used to aid the classification of detainees.<sup>266</sup> MCACF’s classification officer noted that detainees are evaluated for re-classification if they have been at the facility for between 45 and 60 days, or if there have been any problems.<sup>267</sup>

Facility staff indicated that appeals regarding classification go through Broadview, and noted that the Facility will not re-classify a detainee unless ICE so orders.<sup>268</sup> However, ICE

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<sup>254</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>255</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7) notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)

<sup>256</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7) notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)

<sup>257</sup> McHenry Detainee Handbook at 7.

<sup>258</sup> McHenry Detainee Handbook at 7.

<sup>259</sup> McHenry Detainee Handbook at 7.

<sup>260</sup> McHenry Detainee Handbook at 7.

<sup>261</sup> Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c ; Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c

<sup>262</sup> Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c

<sup>263</sup> McHenry Detainee Handbook at 22.

<sup>264</sup> Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c

<sup>265</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>266</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>267</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7) (McHenry facility’s classification officer).

<sup>268</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)

Deportation Officer Cruz indicated that there is no procedure to appeal a detainee’s classification.<sup>269</sup> The McHenry Detainee Handbook indicates that “[d]etainees may appeal their classification by submitting a *McHenry County Detainee Request Form to Classification*.”<sup>270</sup> The Handbook indicates that a “detainee must be in custody for a minimum of sixty (60) days before reclassification.”<sup>271</sup> Detainees do not appear to be aware of any appeals process. One detainee indicated that he was dissatisfied with his classification as a Level 3, but was unaware of any appellate procedures or whether an appeal was even possible.<sup>272</sup> Another Level 3 detainee also expressed dissatisfaction with his classification, as he has no history of violent crimes (he has three non-violent felonies on his record).<sup>273</sup> This detainee also was unaware of any means of appealing his classification.<sup>274</sup> He noted that there has not been any violence among his group of Level 3 detainees in the five and one-half months that he has been at the facility.<sup>275</sup>

**G. Voluntary Work Program**

The *Standards* suggest that all facilities with work programs provide an opportunity for physically and mentally capable detainees to “work and earn money.”<sup>276</sup> Participation must be voluntary, and detainees may not work more than eight hours per day, and 40 hours per week.<sup>277</sup>

**MCACF substantially meets this section of the *Standards*.** The McHenry Detainee Handbook outlines a voluntary work program for detainees.<sup>278</sup> However, the work program detailed in the McHenry Detainee Handbook is not fully available to ICE detainees.<sup>279</sup> The only positions for which ICE detainees are eligible to apply are block or section workers—workers whose job assignments are general housekeeping duties in their housing block or section.<sup>280</sup> Officer (b)(6), (b)(7) stated that ICE detainees are not eligible for work outside of their housing pod because of the expense involved as well as lack of knowledge as to the detainee’s

<sup>269</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>270</sup> McHenry Detainee Handbook at 7.

<sup>271</sup> McHenry Detainee Handbook at 7.

<sup>272</sup> Notes of delegation members (b)(6), (b)(7)c interview with detainee

<sup>273</sup> Notes of delegation members (b)(6) on interview with detainee

<sup>274</sup> Notes of delegation members on interview with detainee (b)(6), (b)(7)c

<sup>275</sup> Notes of delegation members on interview with detainee

<sup>276</sup> Detention Operations Manual, Detainee Services, Standard 37, Sections I & III.A.

<sup>277</sup> Detention Operations Manual, Detainee Services, Standard 37, Sections III.A & H.

<sup>278</sup> McHenry Detainee Handbook at 13.

<sup>279</sup> McHenry Detainee Handbook at 13 (directing that ICE detainees shall be allowed to work “in the kitchen, laundry or section. . .”).

<sup>280</sup> Notes of delegation member (b)(6) on conversations with Corrections Officers (b)(6), (b)(7)c

background and proclivities, both of which are investigated before an inmate at MCACF is assigned to a work detail outside of the pod.<sup>281</sup>

Block workers with whom this delegation spoke generally seemed satisfied with the program.<sup>282</sup> Block workers work far less than the maximum eight hours daily or forty hours weekly.<sup>283</sup> Block workers earn the mandated \$1.00 daily stipend.<sup>284</sup> Block workers are also eligible for special privileges: extra meal servings<sup>285</sup> and additional visitation time.<sup>286</sup>

Appointment to the position of block worker is accomplished through submission of a form to the Classification Officer.<sup>287</sup> Factors bearing on selection for a position include the detainee's initiative and attitude.<sup>288</sup> One detainee noted that while he has applied for a block worker position, he has never been selected.<sup>289</sup>

## H. Detainee Grievance Procedures

The *Standards* require that every facility develop and implement standard procedures for handling formal and informal detainee grievances.<sup>290</sup> Translating assistance for both formal and informal grievances must be provided upon request.<sup>291</sup> The *Standards* also require that each facility establish a reasonable time limit for: (1) "processing, investigating, and responding to grievances;" (2) "convening a grievance committee to review formal complaints;" and (3) "providing written responses to detainees who filed formal grievances, including the basis for the decision."<sup>292</sup> All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.<sup>293</sup>

**MCACF policy appears to meet this section of the *Standards*. However, detainees have experienced delays with the handling of their grievances.** According to

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<sup>281</sup> Notes of delegation member (b)(6), on conversation with Corrections Officer (b)(6), (b)(7)c

<sup>282</sup> Notes of delegation member (b)(6), on conversation with detainee (b)(6), (b)(7)c notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>283</sup> Notes of delegation member (b)(6) on conversations with Corrections Officer (b)(6), (b)(7) and detainee (b)(6), (b)(7)c (b)(6), (b)(7)c

<sup>284</sup> Notes of delegation member (b)(6) conversation with detainee (b)(6), (b)(7)c

<sup>285</sup> *Id.*; notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>286</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>287</sup> McHenry Detainee Handbook at 28.

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

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

<sup>290</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.A.

<sup>291</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections III.A.1 & 2.

<sup>292</sup> Detention Operations Manual, Detainee Services, Standard 5, Section I.

<sup>293</sup> Detention Operations Manual, Detainee Services, Standard 5, Sections I & III.C & D.

Facility personnel, most grievances are handled informally.<sup>294</sup> If a detainee has a grievance, he can orally inform the Housing Unit Officer.<sup>295</sup> The Housing Unit Officer or the on duty Sergeant then tries to resolve the grievance within 24 hours.<sup>296</sup> The detainees may bypass or terminate the informal process and proceed to a formal grievance at any time.<sup>297</sup>

All written grievances are filed through a McHenry County Detainee Request Form.<sup>298</sup> According to the Handbook, a detainee may be provided assistance from another detainee or facility staff in preparing a grievance.<sup>299</sup> Upon completing the form, the grievance is placed in an envelope, sealed by the Housing Unit Officer and then delivered to the on-duty Sergeant.<sup>300</sup> The on-duty Sergeant reviews all grievances and tries to resolve them within 72 hours.<sup>301</sup> The ICE Deportation Officer also reviews the grievances and personally follows up with detainees.<sup>302</sup> The ICE Deportation Officer said most grievances get resolved much faster than the 72-hour window.<sup>303</sup> According to the McHenry Detainee Handbook, if a grievance cannot be resolved, it is sent to a higher authority.<sup>304</sup> The Facility has thirty days to attempt to resolve the grievance.<sup>305</sup> The detainee is supposed to receive a written response to a grievance.<sup>306</sup> The Handbook states that detainees can appeal the resolution of a grievance to the Jail Administrator.<sup>307</sup> Finally, the Handbook also states that the grievance policy prohibits staff from “harassing, disciplining, punishing, or otherwise retaliating against any detainee for filing a grievance.”<sup>308</sup>

The detainees’ experiences with the grievance process are mixed. Detainee (b)(6) asserted that he fears retaliation from the officers if he files a request.<sup>309</sup> Detainee (b)(6) stated that he filed a formal complaint with Sergeant (b)(6), (b)(7) in February

<sup>294</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6)

<sup>295</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6), (b)(7)

<sup>296</sup> Notes of delegation member (b)(6), on conversation with Lt. (b)(6)

<sup>297</sup> McHenry Detainee Handbook at 21.

<sup>298</sup> McHenry Detainee Handbook at 21; Observations of delegation member (b)(6)

<sup>299</sup> McHenry Detainee Handbook at 21.

<sup>300</sup> McHenry Detainee Handbook at 21.

<sup>301</sup> McHenry Detainee Handbook, pg. 21; notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>302</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>303</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>304</sup> McHenry Detainee Handbook at 21.

<sup>305</sup> McHenry Detainee Handbook at 21.

<sup>306</sup> McHenry Detainee Handbook at 21.

<sup>307</sup> McHenry Detainee Handbook at 21.

<sup>308</sup> McHenry Detainee Handbook at 22.

<sup>309</sup> Notes of delegation member (b)(6), on conversation with detainee (b)(6), (b)(7)c

and has not received a response yet.<sup>310</sup> Similarly, detainee (b)(6), (b)(7)c stated she filed a grievance for the temperature being too low in her cell and has not received a response yet.<sup>311</sup> However, according to detainee (b)(6), (b)(7)c the ICE Deportation Officer responds to complaints often and quickly.<sup>312</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>313</sup> Each facility holding ICE detainees must have a detainee disciplinary system which has “progressive levels of reviews, appeals, procedures, and documentation procedures.”<sup>314</sup> The disciplinary policy must clearly define detainees rights and responsibilities, and any disciplinary action taken must not be capricious or retaliatory.<sup>315</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>316</sup> Officers who witness a prohibited act must prepare and submit an incident report.<sup>317</sup> In addition, the *Standards* provide that all incident reports filed by officers must be investigated within twenty-four hours of the incident.<sup>318</sup> The detainee handbook must notify detainees of specific rights, including the right to protection from abuse, harassment, and discrimination.<sup>319</sup>

**MCACF does not fully meet this section of the *Standards*: incident reports are not always required and, according to one report, punishment may be excessive.** The McHenry Detainee Handbook outlines the disciplinary policy of the facility.<sup>320</sup> Facility staff said they try to encourage the informal resolution of a disciplinary problem whenever possible.<sup>321</sup> During the disciplinary process, assistance is provided to the detainee (i.e., translator if the detainee does not speak English).<sup>322</sup>

<sup>310</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>311</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>312</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>313</sup> Detention Operations Manual, Security and Control, Standard 5, Section I.

<sup>314</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.1.

<sup>315</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.1 & A.2.

<sup>316</sup> Detention Operations Manual, Security and Control, Standard 5, Sections III.A.2 and III.A.3.

<sup>317</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.B.

<sup>318</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.B and III.C.

<sup>319</sup> Detention Operations Manual, Security and Control, Standard 5, Section III.A.5.

<sup>320</sup> McHenry Detainee Handbook at 16.

<sup>321</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>322</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

There are two levels of severity for prohibited acts: a minor violation or major violation.<sup>323</sup> The McHenry Detainee Handbook has a partial list of minor violations that include: use of abusive language, failure to comply with any order, gambling, possession of contraband, and horseplay.<sup>324</sup> Punishments for minor violations include: warning, restriction to cell for twenty-three hours per day for up to three days (called an “in-section sanction”), loss of one or more privileges for up to three days, and change in work assignment or living quarters.<sup>325</sup> All in-section sanctions are reviewed and approved by a Command Officer for fairness and impartiality.<sup>326</sup> The on-duty Sergeant reviews all minor violation sanctions.<sup>327</sup> According to the Handbook, no “Notice of Rule Violation” is required for minor violations, and detainees are verbally notified of their sanctions.<sup>328</sup> Corrections Officer (b)(6), (b)(7) stated that minor violations never result in corporal punishment, deviations from normal food services, deprivation of clothing, bedding, or items of personal hygiene or deprivation of correspondence privileges.<sup>329</sup>

The second level of severity is a major violation which includes: attempted murder, arson, assault or battery, fighting, attempting to escape, and indecent exposure.<sup>330</sup> The likely punishments for a major rules violation include criminal prosecution, segregation for up to fifteen days, and loss of privileges for up to fifteen days.<sup>331</sup> Corrections Officer (b)(6), (b)(7) referred us to the McHenry Detainee Handbook for an outline of the due process procedures for a major violation.<sup>332</sup> When a major violation is committed, the detainee is served with a “Violation of Rules Form” within 72 hours of discovery of the alleged violation.<sup>333</sup> This report is turned over to the Disciplinary Board who then investigates the charges.<sup>334</sup> A hearing is held within eight days of the incident where the detainee can address the Board and have witnesses appear.<sup>335</sup> The detainee can appeal the decision of the Board to the Jail Administrator within three days of receiving the Board’s findings.<sup>336</sup>

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<sup>323</sup> McHenry Detainee Handbook at 16.

<sup>324</sup> McHenry Detainee Handbook at 16-17.

<sup>325</sup> McHenry Detainee Handbook at 17.

<sup>326</sup> McHenry Detainee Handbook at 17.

<sup>327</sup> McHenry Detainee Handbook at 17.

<sup>328</sup> McHenry Detainee Handbook at 17.

<sup>329</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)

<sup>330</sup> McHenry Detainee Handbook at 18.

<sup>331</sup> McHenry Detainee Handbook at 18-19.

<sup>332</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)

<sup>333</sup> McHenry Detainee Handbook at 18.

<sup>334</sup> McHenry Detainee Handbook at 19.

<sup>335</sup> McHenry Detainee Handbook at 19-20.

<sup>336</sup> McHenry Detainee Handbook at 20.



The McHenry Detainee Handbook notifies the detainees of the disciplinary process, the prohibited acts and disciplinary severity scale, and the appeals procedure.<sup>337</sup> In addition, the McHenry Detainee Handbook notifies detainees of the facility’s rules of conduct and the sanctions imposed for the violation of these rules.<sup>338</sup> Finally, a later section of the Handbook advises detainees of their “right to protection from personal abuse, corporal punishment, unnecessary or excessive use of force, personal injury, disease, property damage, and harassment,” and of their “right of freedom from discrimination based on race, religion, national origin, sex, handicap, or political beliefs.”<sup>339</sup>

Detainee (b)(6) described one incident in which he felt the disciplinary process was “capricious or retaliatory.”<sup>340</sup> In February 2006, he was taken to his court hearing and brought chapstick with him that he purchased through the commissary.<sup>341</sup> Upon re-entry to the facility, a guard took his chapstick saying it was contraband.<sup>342</sup> When Mr. (b)(6) protested, the guard told him, “if you keep on asking me, I’m gonna lock you down.”<sup>343</sup> Mr. (b)(6) was then put in segregation for three days.<sup>344</sup> According to the McHenry Detainee Handbook, segregation is only a punishment for a major violation.<sup>345</sup> Mr. (b)(6) did not get a hearing or a written report of his charges.<sup>346</sup> Mr. (b)(6) says he would have appealed the punishment if he knew how, but he did not.<sup>347</sup> Although the appeals procedures are explained in the current Handbook, which was revised in 2006, we do not know whether the information was included in the previous handbook or would have been available to detainees at the time of Mr. (b)(6) discipline.<sup>348</sup>

## J. 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>349</sup> 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

<sup>337</sup> McHenry Detainee Handbook at 16-20.

<sup>338</sup> McHenry Detainee Handbook at 16-20.

<sup>339</sup> McHenry Detainee Handbook at 23, 24.

<sup>340</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>341</sup> Notes of delegation member (b)(6) on conversation with (b)(6), (b)(7)c

<sup>342</sup> Notes of delegation member (b)(6) on conversation with (b)(6), (b)(7)c

<sup>343</sup> Notes of delegation member (b)(6) on conversation with (b)(6), (b)(7)c

<sup>344</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>345</sup> McHenry Detainee Handbook at 18.

<sup>346</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>347</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>348</sup> See *infra*, Section III.M.

<sup>349</sup> Detention Operations Manual, Detainee Services, Standard 14, Section I.

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>350</sup> Moreover, a facility’s staff shall make “all reasonable efforts to accommodate” special food services required by a detainee’s particular religion.<sup>351</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>352</sup>

**MCACF substantially meets this section of the *Standards*, although no ornaments of religion are allowed, including religious headwear.** According to the McHenry Detainee Handbook, all detainees at MCACF “shall have access to religious resources, instruction, and counseling on a voluntary basis,”<sup>353</sup> and MCACF strives to provide “religious services conducted by members of various religions.”<sup>354</sup> According to facility staff, these opportunities exist for members of all faiths, regardless of whether or not the faith is mainstream.<sup>355</sup> Muslim detainees are allowed to pray daily, and MCACF provides extra towels to be used as prayer rugs.<sup>356</sup> Generally, detainees are allowed “one (1) softbound Religious book of [the detainee’s] specified religion.”<sup>357</sup> No jewelry is permitted,<sup>358</sup> including any religious jewelry.<sup>359</sup> Detainees may not retain most personal property,<sup>360</sup> including sacred ornaments and headwear.<sup>361</sup>

At MCACF, “[a]ll clergy visits must be cleared through the Jail Chaplain’s Office.”<sup>362</sup> Detainees have been visited by the chaplain<sup>363</sup> or participated in group meetings with outside clergy.<sup>364</sup> Detainees can also request assistance from or a meeting with the MCACF chaplain by completing the Detainee Request Form.<sup>365</sup>

<sup>350</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>351</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.M.

<sup>352</sup> Detention Operations Manual, Detainee Services, Standard 14, Section III.O.

<sup>353</sup> McHenry Detainee Handbook at 13.

<sup>354</sup> McHenry Detainee Handbook at 13.

<sup>355</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>356</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>357</sup> McHenry Detainee Handbook at 4. One detainee requested a Koran, and the text was (b)(6), (b)(7)c in English.  
Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>358</sup> McHenry Detainee Handbook at 5

<sup>359</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>360</sup> McHenry Detainee Handbook at 6. (b)(6), (b)(7)c

<sup>361</sup> Notes of delegation member (b)(6) on conversations with Lt. (b)(6), (b)(7)c and detainee (b)(6), (b)(7)c

<sup>362</sup> McHenry at Detainee Handbook at 13, 15.

<sup>363</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>364</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>365</sup> Observations of delegation member (b)(6)

MCACF has made efforts to accommodate the dietary requirements of various religions. MCACF uses no pork products.<sup>366</sup> Detainees note that they are able to observe holy days, religious fasts,<sup>367</sup> and dietary restrictions.<sup>368</sup>

### K. 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>369</sup> 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>370</sup> Recreation shall be provided to detainees in disciplinary segregation in accordance with the “Recreation” standard.<sup>371</sup> Access to legal material shall remain open and requests for access shall be accommodated no more than twenty-four hours after receipt of the initial detainee request.<sup>372</sup> Similarly, access to the law library shall be granted to detainees in segregation, and access by request only is an option.<sup>373</sup> Detainees in disciplinary segregation shall not be denied legal visitation.<sup>374</sup> Detainees in segregation shall have the same correspondence privileges as detainees in the general population.<sup>375</sup>

**McHenry County Adult Corrections Facility substantially meets this section of the *Standards*.** Segregated detainees remain in the SMU twenty-three hours a day.<sup>376</sup> A segregated detainee is permitted to leave his/her cell for one hour each day when he/she can engage in solitary recreational activities in either one of the recreation rooms or the Pod space surrounding the SMUs.<sup>377</sup> As noted above, the MCACF does not have any outdoor recreation areas or any fixed or movable equipment within its recreation areas.<sup>378</sup> There is also no fixed or

<sup>366</sup> McHenry Detainee Handbook at. 9.

<sup>367</sup> Notes of delegation member (b)(6) on conversation with Lt. Cox (noting that the MCACF allows detainees to observe Ramadan and alters meal times accordingly).

<sup>368</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c (noting that he recalls special meals served during Lenten Fridays and Holy Week). A box of frozen kosher food from “My Own Meal” was stored in the kitchen, demonstrating the availability of kosher meals at MCACF. Observations of delegation member (b)(6) notes of delegation member (b)(6), on conversation with (b)(6) kitchen supervisor at MCACF.

<sup>369</sup> Detention Operations Manual, Security and Control, Standard 14, Section I.

<sup>370</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.A.

<sup>371</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.13.

<sup>372</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.15.

<sup>373</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.15.e.

<sup>374</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.17.

<sup>375</sup> Detention Operations Manual, Security and Control, Standard 14, Section III.D.18.

<sup>376</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>377</sup> Notes of delegation member (b)(6) on conversation with Lt. (b)(6), (b)(7)c

<sup>378</sup> Observations of delegation member (b)(6)

movable equipment in the segregation Pods.<sup>379</sup> Thus, segregated detainees have the same access to recreation that non-segregated detainees have for one hour a day, but this access does not satisfy the *Standards*.<sup>380</sup>

Detainees in segregation are permitted to make legal phone calls and make trips to the law library upon request, assuming there are no other detainees in the library.<sup>381</sup> Detainees in segregation are also allowed to receive and send mail and to visit with attorneys.<sup>382</sup>

**L. 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 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>383</sup> The *Standards* suggest that scheduled weekly visits be conducted by ICE personnel.<sup>384</sup> Additionally, ICE officers must conduct regular unannounced (not scheduled) visits.<sup>385</sup> The *Standards* also require that facilities provide detainees the opportunity to resolve informal grievances by submitting written questions, requests, or concerns to ICE staff.<sup>386</sup> These requests shall be delivered to ICE staff by authorized personnel (not detainees) without reading, altering, or delay.<sup>387</sup> All facilities must have written procedures to route detainee requests to the appropriate ICE official and must provide assistance to detainees who are “disabled, illiterate, or know little or no English.”<sup>388</sup> All requests shall be recorded in a logbook specifically designed for that purpose.<sup>389</sup> Finally, notice of the opportunity to submit written question, request, or concerns to ICE staff and the procedures for doing so must be included in the detainee handbook.<sup>390</sup>

**MCACF meets this section of the *Standards*.** ICE Deportation Officer (b)(6), (b)(7)c has an office on the first floor of the facility, and he is at the facility three or four days a week.<sup>391</sup> A flyer posted in each Pod notifies detainees that Officer (b)(6), (b)(7)c schedules weekly detainee

<sup>379</sup> Observations of delegation member (b)(6)

<sup>380</sup> Observations of delegation member (b)(6)

<sup>381</sup> Notes of delegation member (b)(6) on conversation with Lts. (b)(6), (b)(7)c

<sup>382</sup> Notes of delegation member (b)(6) on conversation with Lts. (b)(6), (b)(7)c

<sup>383</sup> Detention Operations Manual, Detainee Services, Standard 15, Section I.

<sup>384</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.2.

<sup>385</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.A.1.

<sup>386</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

<sup>387</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

<sup>388</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

<sup>389</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.2.

<sup>390</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

<sup>391</sup> Notes of delegation member (b)(6), on conversation with ICE Deportation Officer (b)(6), (b)(7)c

visitation every Thursday.<sup>392</sup> Officer (b)(6), (b)(7) informed the delegation that this flyer is outdated, as he also makes unscheduled visits during other days of the week, since he recently increased the number of days he works at MCACF.<sup>393</sup> Detainees confirmed that they usually see Officer (b)(6), (b)(7) on Thursdays, and sometimes during the rest of the week.<sup>394</sup>

The McHenry Detainee Handbook provides notice of the opportunity to submit written questions, requests, or concerns to ICE staff by filling out an ICE Detainee Request Form.<sup>395</sup> There are Detainee Request Forms available in English and Spanish in each Pod to file an informal request with ICE.<sup>396</sup> Housing Unit Officers pick up these requests daily and deliver them to a box outside ICE Deportation Officer (b)(6), (b)(7)c office.<sup>397</sup> Officer (b)(6), (b)(7) keeps a logbook of all received requests and his responses.<sup>398</sup>

Two detainees interviewed by the delegation reported that they were aware of how to fill out a Detainee Request Form and that their requests were resolved promptly.<sup>399</sup>

#### M. Detainee Handbook

The *Standards* require that the facility must provide each detainee, upon admittance, a copy of the detainee handbook or equivalent.<sup>400</sup> The handbook also must state “that the detainee has the opportunity to submit written questions, requests, or concerns to ICE staff and the procedures for doing so, including the availability of assistance in preparing the request.”<sup>401</sup> Other handbook requirements are addressed in *Standards* including Correspondence and Other Mail, Detainee Grievance Procedures, Disciplinary Policy, and Staff-Detainee Communication.

**MCACF substantially meets this section of the *Standards*; however, it is unclear whether the Handbook is provided to all detainees, and a Spanish language version is not yet available.** MCACF has a handbook exclusively for ICE detainees; the current handbook was issued in May 2006.<sup>402</sup> Further, pages twenty through twenty-two contain a detailed explanation

<sup>392</sup> Observations of delegation member (b)(6)

<sup>393</sup> Notes of delegation member (b)(6), on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>394</sup> Notes of delegation member (b)(6), on interviews with detainee (b)(6), (b)(7)c and detainee (b)(6), (b)(7)c

<sup>395</sup> McHenry Detainee Handbook at 2.

<sup>396</sup> Observations of delegation member (b)(6); notes of delegation member (b)(6) on interview with Detainee (b)(6), (b)(7)c

<sup>397</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>398</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>399</sup> Notes of delegation member (b)(6), on interview with Detainee (b)(6), (b)(7)c notes of delegation member (b)(6), on interview with Detainee (b)(6), (b)(7)c

<sup>400</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

<sup>401</sup> Detention Operations Manual, Detainee Services, Standard 15, Section III.B.3.

<sup>402</sup> See McHenry Detainee Handbook.

of how a detainee may file grievances both within the facility and outside of the facility.<sup>403</sup> The McHenry Detainee Handbook is exhaustive in its scope and contains information on myriad topics.

Two problems with MCACF's use of the Detainee Handbook were discovered in detainee interviews. While our guides informed us that all detainees received a copy of the handbook upon arrival,<sup>404</sup> one detainee stated that she had yet to receive the handbook.<sup>405</sup> Further, there is currently no Spanish language version of the handbook, although Deportation Officer Cruz assured us that one is being created soon.<sup>406</sup>

## N. Funds & Personal Property

The *Standards* require that detainees be permitted to retain: small religious items, religious and secular reading materials (soft cover), legal documents, ten 5x7 pictures, prescription glasses, dentures, address books and a wedding ring.<sup>407</sup> Further, all facilities must provide for the control and safeguarding of detainees' personal property, including storage of funds, valuables, baggage and other personal property.<sup>408</sup>

**MCACF substantially meets this section of the *Standards*.** As noted in previous sections, all detainees are initially processed at a facility in Broadview where their personal property is inventoried and remains until either a family member comes to retrieve the items or the items are returned to the detainee upon release.<sup>409</sup> Further, detainees are permitted to keep: legal papers, religious and secular reading materials, mail addressed to them, prescription glasses, address books, up to ten non-Polaroid pictures and a wedding band.<sup>410</sup> Detainees are however not permitted to keep any small religious items.<sup>411</sup>

## V. CONCLUSION

MCACF meets many of the *ICE Detention Standards* but fails to meet a number of sections.

### Recommendations:

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<sup>403</sup> McHenry Detainee Handbook at 20-22.

<sup>404</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer, (b)(6), (b)(7)c and Lts. (b)(6), (b)(7)c

<sup>405</sup> Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

<sup>406</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>407</sup> Detention Operations Manual, Detainee Services, Standard 8, Section III.B.

<sup>408</sup> Detention Operations Manual, Detainee Services, Standard 8, Section III.C

<sup>409</sup> Notes of delegation member (b)(6) on conversation with ICE Deportation Officer (b)(6), (b)(7)c

<sup>410</sup> Notes of delegation member (b)(6) on conversation with Lts. (b)(6), (b)(7)c

<sup>411</sup> Notes of delegation member (b)(6) on conversation with Lts. (b)(6), (b)(7)c

MCACF should allow legal visits to proceed through meal times and provide detainees with missed meals afterward. MCACF should allow family visits to last for 30 minutes, rather than the current 15 minutes.

To provide for adequate telephone access for detainees, MCACF should ensure that detainees may have private telephone conversations with their attorneys, even when the attorneys do not initiate the call.

To guarantee that inmates have access to proper legal research tools, MCACF should provide legal reference books (in both English and Spanish) so that detainees may have an alternative to LexisNexis on the computer. MCACF should also provide detainees with the option of printing case law and statutes from LexisNexis and to keep personal legal files in their cells.

To provide for proper group rights presentations, MCACF should post notices to detainees about the time and place of group rights presentations. The “Know Your Rights” video should be obtained and shown regularly.

To ensure that detainees have proper access to recreation activities and rooms, MCACF should allow detainees to use the recreation rooms for one hour a day. Also, the recreation rooms should contain some fixed or movable equipment so detainees can have greater access to cardiovascular exercises.

To provide for proper classification procedures to detainees, MCACF should ensure that there is an appeals process, and instruct detainees on how they can get re-classified.

In order for detainees to have proper access to grievance procedures, MCACF should shorten its length of response time so that detainees are assured their grievances are being responded to adequately.

Finally, to ensure that all detainees have proper notice of their rights and the procedures of MCACF, the McHenry Detainee Handbook should be provided to all detainees upon arrival, and be available in various languages (including Spanish).