

Facility Name: **ELIZABETH CONTRACT DETENTION FACILITY, Elizabeth, NJ**

Date of Tour: **January 20, 2006**

Tour Participants: Cleary Gottlieb Steen & Hamilton and Dechert LLP attorneys

(b)(7)(c)

**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>Standard 17, Visitation</p> <ul style="list-style-type: none"> ▪ III.G. The facility’s visiting area shall be appropriately furnished and arranged, and as comfortable and pleasant as practicable. ▪ III.I.14. Pro Bono List. INS shall provide the facility with the official list of pro bono legal organizations, which is updated quarterly by the [EOIR]. The facility shall promptly and prominently post the current list in detainee housing units and other appropriate areas. 	<ul style="list-style-type: none"> ▪ Non-attorney visits take place in twenty small non-contact booths where detainees communicate with visitors over the phone and see them through a window. The booths are similar to those used in prisons, and do not appear to provide a “comfortable and pleasant” visitation experience. (p.4 ¶3) ▪ The list of legal representatives given to detainees may not be the most current list from EOIR. It contains phone numbers that are no longer in service and organizations that no longer exist. (p.4 ¶2) 	<p>Delegation observations.</p> <p>(b)(7)(c)</p>	
2.	<p>Standard 16, Telephone Access</p> <ul style="list-style-type: none"> ▪ I. Facilities holding INS detainees shall permit them to have reasonable and equitable access to telephones. ▪ 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, and the detainee shall be allowed to continue the call if desired, at the first available opportunity. 	<ul style="list-style-type: none"> ▪ The Detainee Handbook states that calls should not last more than fifteen minutes, except calls to consulates and pro bono attorneys. This should be changed to twenty minutes for all calls to legal representatives. (p.6 ¶3) ▪ Two detainees indicated that the per-minute rates on the calling cards are expensive, often as much as \$1 or \$2 per minute for international calls. Detainees are not permitted to make collect calls. (p.7 ¶4) 	<p>Detainee Handbook.</p> <p>(b)(7)(c)</p>	
3.	<p>Standard 16, Telephone Access</p> <ul style="list-style-type: none"> ▪ III.I. The facility shall take and deliver telephone messages to detainees as promptly as possible. When facility staff receives an emergency telephone call for a detainee, the caller’s name and telephone number will be obtained and given to the detainee as soon as possible. 	<ul style="list-style-type: none"> ▪ Messages are delivered to detainees on an ad hoc basis. The staff generally delivers urgent messages to detainees. The staff will pass on the information that an attorney called, but will not deliver substantive messages from the attorney. Attorneys cannot call to set up meetings with detainees in advance. (p.6 ¶6) 	<p>(b)(7)(c)</p>	

<p>4.</p>	<p>Standard 16, Telephone Access</p> <ul style="list-style-type: none"> ▪ III.J. The facility shall ensure privacy for detainees' telephone calls regarding legal matters. For this purpose, the facility shall provide a reasonable number of telephones on which detainees can make such calls without being overheard by officers, other staff or other detainees. Facility staff shall not electronically monitor detainee telephone calls on their legal matters, absent a court order. ▪ III.K. A detainee's call to a court, a legal representative, or for the purposes of obtaining legal representation will not be aurally monitored absent a court order. The OIC retains the discretion to have other calls monitored for security purposes. 	<ul style="list-style-type: none"> ▪ The telephones within each dormitory unit are located near the common area. There are small privacy panels beside the telephones, but it is not clear that this ensures privacy for detainees when making legal calls. (p.8 ¶3) ▪ It is unclear whether calls are monitored. Officer-in-Charge ██████ said that EDF does not monitor or record any telephone calls. (p.8 ¶5). However, two detainees said that there is a recording at the beginning of each call, audible by both parties to the call, which states that the call is subject to recording and monitoring. (p.9 ¶1) One of the detainees said he was not aware of any telephones that he could use that would allow him to have a conversation with his attorney without hearing the message that the telephone call was subject to monitoring. (p.9 ¶1) 	<p>Delegation Observations.</p> <p>(b)(6), (b)(7)(c)</p> <p>(b)(6), (b)(7)(c)</p>	
<p>5.</p>	<p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> ▪ III.B. Equipment. The law library shall provide an adequate number of typewriters and/or computers, writing implements, paper and office supplies to enable detainees to prepare documents for legal proceedings. 	<ul style="list-style-type: none"> ▪ The officer on duty in the library stated that the detainees are permitted to save word processing work on a floppy disc that must remain in the library, but another officer indicated that detainees are not provided discs. (p.12 ¶4) ▪ A detainee stated that one of the two computers available in the law library is usually not functioning, and the printer in the library sometimes doesn't work. (p.12 ¶5) 	<p>Delegation Observations.</p> <p>(b)(6), (b)(7)(c)</p>	
<p>6.</p>	<p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> ▪ III.C. The law library shall contain the materials listed in Attachment A. ▪ 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. 	<ul style="list-style-type: none"> ▪ Some materials listed in the <i>Standards</i> that could not be located: United States Code, Title 8; Immigration Law and Crimes; the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status; and the Lawyer's Committee Handbook on Representing Asylum Applicants. (p.10 ¶5) ▪ One detainee noted that all legal material was in English, and thus unhelpful to many detainees. (p.12 ¶2) A Japanese detainee noted that the library contains no Japanese-English dictionary. (p.12 ¶1) 	<p>Delegation Observations.</p> <p>(b)(6)</p>	

7.	<p>Standard 1, Access to Legal Material</p> <ul style="list-style-type: none"> III.J. The facility shall ensure that detainees can obtain copies of legal material 	<ul style="list-style-type: none"> The law library has a small photocopier on which detainees can make free copies. The facility staff stated that if the copier is broken the ICE office will make copies for the detainees. (p.13 ¶1) However, a detainee stated that officers sometimes deny requests for photocopying, though it was not clear to the delegation whether this was in relation to legal or non-legal documents. (p.13 ¶2) Another detainee said that he had been limited to making 3-4 photocopies per day, and that detainees have missed court deadlines because of copying restrictions. (p.13 ¶2) 	<p>(b)(6), (b)(7)(c)</p>	
8.	<p>Standard 9, Group Presentations on Legal Rights</p> <ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> Detainees stated that they had never heard of the Florence Project’s “Know Your Rights” video. (p.15 ¶2) Officer-in-Charge [REDACTED] was familiar with video, but uncertain of whether it was available for detainee viewing. (p.15 ¶2) 	<p>(b)(6), (b)(7)(c)</p>	
9.	<p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> III.B. The facility shall notify detainees of its policy on correspondence and other mail through the detainee handbook or equivalent ... [and] shall specify: 1. That a detainee may receive mail, ... and instructions on how envelopes should be addressed; ... 4. That [incoming] special correspondence may only be opened in the detainee’s presence, and may be inspected for contraband, but not read; ... 5. The definition of special correspondence, including instructions on the proper labeling for special correspondence, without which it will not be treated as special mail. ... 	<ul style="list-style-type: none"> The Detainee Handbook does not specify how to address correspondence, the definition of special correspondence, or how correspondence should be labeled in order to be treated as special correspondence, or that special correspondence may be inspected for contraband but not read. (p.16 ¶2) 	<p>Detainee Handbook.</p>	
10.	<p>Standard 3, Correspondence and Other Mail</p> <ul style="list-style-type: none"> III.I. Postage Allowance. Indigent detainees will be permitted to mail a reasonable amount of mail each week, including at least five pieces of special correspondence and three pieces of general correspondence. III.J. The facility shall provide writing paper, writing implements, and envelopes at no cost to detainees 	<ul style="list-style-type: none"> The handbook states that indigent detainees will be given sufficient stationery and postage to send three letters per week. (p.17 ¶2) Detainees said that even if a detainee is indigent and is offered free postage, he still must purchase his own pen and paper, thus effectively preventing him from sending mail. (p.17 ¶2, and fn. 196) 	<p>Detainee Handbook.</p> <p>(b)(6)</p>	

11.	<p>Standard 7, Food Service</p> <ul style="list-style-type: none"> ▪ I. It is INS policy to provide detainees with nutritious, attractively presented meals, prepared in a sanitary manner while identifying, developing and managing resources to meet the operational needs of the food service program. 	<ul style="list-style-type: none"> ▪ The quantity of food provided based on the sample menu and the tray that the delegation observed appeared adequate. (p.18 ¶2) However, one detainee remarked that he was “scantly fed.” (p.18 ¶2) Another detainee remarked that there was a lack of fresh fruits and vegetables. (p.18 ¶2) ▪ A detainee stated that his medically required dietary needs were not being met. He indicated that due to his medical condition, the medical staff recommended that he be served a double fruit portion, but the kitchen manager did not accommodate this request. He also stated that the food served to the general population was also too salty, too fatty, and contained too little fiber to meet his medically required dietary needs. (p.19 ¶2) ▪ Another detainee stated that the water that detainees drink is not potable. The detainee suggested that the drinking water provided to detainees is the same water that is flushed down the toilets. He said that drinking water and the water that comes out of the hot water taps is almost white, which he believes is due to the excessive amounts of chlorine that is used to treat the water. (p.18 ¶3) 	<p>Delegation Observations;</p> <p>(b)(7)(D)</p> <p>(b)(7)(D)</p> <p>(b)(7)(D)</p>	
12.	<p>Health Services Standard 2, Medical Care</p> <ul style="list-style-type: none"> ▪ I. All detainees shall have access to medical services that promote detainee health and general well-being. ▪ III.A. Every facility will provide its detainee population with initial medical screening, cost-effective primary medical care, and emergency care. 	<ul style="list-style-type: none"> ▪ A detainee stated that the facility is often slow in responding to requests for medical care, and that requests for sick calls often had to be made multiple times before treatment was received. (p.22 ¶1) ▪ Another detainee noted that guards act as gatekeepers to the medical personnel and have sometimes hindered his ability to address his medical needs. In addition, the detainee noted that he has had difficulty getting his heart medication despite repeated referrals. He also noted that he sometimes does not receive refills before his supply runs out. (p.22 ¶1) 	<p>(b)(7)(D)</p>	

13.	<p>Standard 5, Detainee Grievance Procedures</p> <ul style="list-style-type: none"> III.A.2. Formal/Written Grievance. The OIC must allow the detainee to submit a formal, written grievance to the facility's grievance committee. 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. 	<ul style="list-style-type: none"> Two detainees stated that grievances are not attended to. One detainee stated that a CCA guard once told him he could complain if he wanted to but that it would go nowhere. The detainee also said his grievances are attended to only when he involves his lawyer. (p.24 ¶4) Another detainee stated that although he repeatedly reported that a detainee was threatening him with physical violence, his pleas were ignored. (p.24 ¶4) 	(b)(7)(c)	
14.	<p>Standard 8, Funds and Personal Property</p> <ul style="list-style-type: none"> III.I. All facilities will provide for the control and safeguarding of detainees' personal property. This will include the secure storage of funds, valuables, baggage and other personal property; a procedure for documentation and receipting of surrendered property; and the initial and regularly scheduled inventories of all funds, valuables and other property. 	<ul style="list-style-type: none"> Facility staff informed the delegation that money received or earned by a detainee goes into a personal account at the facility, and detainees are given receipts for all money or property received. (p.26 ¶2) The Detainee Handbook states that money is contraband and will be confiscated; it does not indicate that the money will be kept for use by the detainee. (p.26 ¶2) A detainee reported that EDF used to give out a balance statement of the money in a detainee's account, but has stopped doing so. (p.26 ¶2) Another detainee noted that he has had extreme difficulty accessing his personal funds. (p.26 ¶2) Officer-in-Charge ██████ stated that staff members seize any money that they determine to be counterfeit, and that staff members have a way of distinguishing between real and counterfeit money. Officer-in-Charge ██████ also stated that law enforcement officers are not contacted when money is seized because it is usually small amounts. (p.26 ¶3) The delegation members are concerned that this process may lead to detainees having non-counterfeit money withheld from them. (p.26 ¶3) 	<p>(b)(7)(c)</p> <p>Handbook.</p> <p>(b)(7)(c)</p>	
15.	<p>Standard 14, Religious Practices</p> <ul style="list-style-type: none"> III.A. No one may disparage the religious beliefs of a detainee, nor coerce or harass a detainee to change religious affiliation. 	<ul style="list-style-type: none"> One detainee noted that he had been threatened by another detainee because of his religion. The detainee indicated that although he complained about the incident to the administration, no action was taken. (p.28 ¶2) 	(b)(7)(c)	

16.	<p>Security and Control Standard 17, Use of Force</p> <ul style="list-style-type: none"> ▪ I. The use of force is authorized only after all reasonable efforts to resolve a situation have failed. Officers shall use as little force as necessary to gain control of the detainee; to protect and ensure the safety of detainees, staff, and others; to prevent serious property damage; and to ensure the security and orderly operation of the facility. Physical restraints shall be used to gain control of an apparently dangerous detainee only under specified conditions. 	<ul style="list-style-type: none"> ▪ Two detainees remarked that EDF is run like a prison and that detainees are treated like prisoners. Pat-down searches appear to be common at EDF: one detainee said that pat-downs are sometimes done several times per day, and another detainee said that these are sometimes done roughly. (p.28 ¶3) 	(b)(7)(D)	
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MEMORANDUM

April 13, 2006

To: John P. Torres, Acting Director, Office of Detention and Removal, Immigration and Customs Enforcement
From: American Bar Association delegation to Elizabeth Contract Detention Facility¹
Copies to: (b)(6) ABA Commission on Immigration
Subject: Report on Observational Tour of the Elizabeth Contract Detention Facility

1. Introduction and Delegation’s Visit

This memorandum summarizes and evaluates information gathered at the Elizabeth Contract Detention Facility (“EDF”) in Elizabeth, New Jersey, during the delegation’s January 20, 2006 visit to the facility. The information was gathered via observation of the facility by the delegation, interviews with three detainees, and discussions with EDF and Immigration and Customs Enforcement (“ICE”) personnel, including ICE Officer-in-Charge (b)(6), (b)(7)c, ICE Supervisory Immigration Officer (b)(6), (b)(7)c, EDF Warden (b)(6), (b)(7)c, Officer (b)(6), (b)(7)c, Lieutenant Commander (b)(6), (b)(7)c, Health Services Administrator with U.S. Public Health Service, and Physician’s Assistant (b)(6).

2. General Information About the Elizabeth Contract Detention Facility

The facility is a co-ed immigration detention facility located in Elizabeth, New Jersey and operated by Corrections Corporation of America (“CCA”). At the time of our visit, the population count was approximately 270, including about 53 women.² The detainees come from many countries, and the average stay is approximately four months.³ Detainees are given a copy of a “Detainee Handbook” upon arrival.⁴

¹ The delegation consisted of attorneys and a paralegal from the New York offices of Cleary Gottlieb Steen & Hamilton LLP and Dechert LLP, including (b)(6)
(b)(6)
² Notes of delegation member (b)(6) on conversation with (b)(6), (b)(7)c ICE Officer-in-Charge (“Officer-in-Charge (b)(6), (b)(7)c
³ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
⁴ Notes of delegation member (b)(6), on conversation with Officer-in-Charge (b)(6), (b)(7)c. The handbook is available in English, French, Creole, Chinese, and Spanish (attached as Exh B, C, D and E, respectively).

3. **Observations of Implementation of Legal Access Standards⁵**

a. **Legal Access/Visitation**

i. **Visitation by Legal Counsel**

The *Standards* require that facilities permit legal visitation seven days per week.⁶ Attorneys should have access to their clients eight hours per day during the week and four hours per day during the weekend.⁷ The visits must be private, and should not be interrupted for head counts.⁸ Facilities should establish a procedure by which attorneys may call to determine whether a detainee is housed in a particular facility.⁹ Detention centers should permit visits from attorneys, other legal representatives, legal assistants and interpreters.¹⁰

EDF meets this section of the *Standards*. Attorneys are allowed to visit from approximately 7:00 a.m. to 10:00 p.m., but detainees with court hearings must end their attorney meetings no later than 7:45 am for morning court sessions and 12:30 pm for afternoon sessions, so that detainees are not late to court.¹¹ Office-in-Charge (b)(6), (b)(7)c noted, however, that attorney visits can continue past the official visitation hours, if necessary.¹²

Legal visits occur in three contact visitation rooms, each equipped with a table seating approximately four people.¹³ Although attorney-client meetings can be watched from outside the surrounding sound-proof glass windows, Officer-in-Charge (b)(6), (b)(7)c assured the ABA delegation members that attorney visits and telephone calls are completely confidential.¹⁴ The facility does not monitor the content of attorney visits.¹⁵ Detainees are subject to pat-down searches after attorney visits to prevent the smuggling of contraband, but they do have the option of non-contact visits.¹⁶ Attorneys are searched before visits, but not afterwards.¹⁷ In cases where attorney visitation coincides with the

⁵ The delegation notes that both Officer-in-Charge (b)(6), (b)(7)c had assumed his post at EDF only weeks before the delegation’s visit, while Supervisory Immigration Officer I (b)(6), (b)(7)c (“Supervisory Officer (b)(6), (b)(7)c”) had been at his post at EDF for only one week. While both are apparently experienced ICE officers, they may not have had the opportunity to completely familiarize themselves with all of CCA’s practices at EDF. The delegation therefore notes the possibility that some of the officers’ comments to the delegation may have reflected their general understanding of ICE procedures and detention facility practices rather than particular experience at EDF.

⁶ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

⁷ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.2.

⁸ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.9.

⁹ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.6.

¹⁰ Detention Operations Manual, Detainee Services, Standard 17, Section III.I.3.

¹¹ Notes of delegation member (b)(6), (b)(7)c on sign posted at EDF visitor entrance.

¹² Notes of delegation member (b)(6), (b)(7)c on conversation with Officer-in-Charge (b)(6), (b)(7)c

¹³ Notes of delegation member (b)(6), (b)(7)c on conversation with Officer-in-Charge (b)(6), (b)(7)c

¹⁴ Notes of delegation member (b)(6), (b)(7)c on conversation with Officer-in-Charge (b)(6), (b)(7)c

¹⁵ Notes of delegation member (b)(6), (b)(7)c on conversation with Officer-in-Charge (b)(6), (b)(7)c

¹⁶ Notes of delegation member (b)(6), (b)(7)c on conversation with Officer-in-Charge (b)(6), (b)(7)c

¹⁷ Notes of delegation member (b)(6), (b)(7)c on conversation with Officer-in-Charge (b)(6), (b)(7)c

detainee's mealtime, the visit may continue and the detainee will have a (cold) lunch later.¹⁸

Interpreters are allowed to visit and interpret for attorneys.¹⁹ However, for security reasons EDF does not allow anyone to interpret if he or she is a former detainee or has a personal relationship with the detainee being visited.²⁰

Doctor's visits for the purpose of documenting injuries require a consent form from the detainee and coordination with health services to secure an examination room.²¹ Cameras may be used to document injuries.²²

ii. **Consular Access**

The *Standards* provide that detainees must be advised of their right to contact and receive visits from their consular officers; the same hours, privacy, and conditions that govern legal visitation guide consular visitation.

EDF meets this section of the *Standards*. Upon arrival at EDF detainees are advised of their right to contact their consulates and receive a booklet about consular notification.²³ Calls made by detainees to their consulates are free.²⁴ The consulates of certain countries visit the facility regularly, including the United Kingdom, El Salvador, Guatemala, Mexico and the Philippines.²⁵ On the day of our visit, a representative of the Mexican consulate was at the EDF.²⁶ One detainee acknowledged that he could contact his Embassy consulate if he so desired, but because he left his native country due to fears of government retaliation, he has never attempted to make contact.²⁷

iii. **Access to Contact Information for Legal Services**

The *Standards* state that each facility shall promptly and prominently post the current official list of *pro bono* legal organizations, which is updated quarterly by the

18 Notes of delegation member [redacted] on conversation with Officer-in-Charge [redacted]
19 Notes of delegation member (b)(6) on conversation with Officer-in-Charge [redacted]
20 Notes of delegation member [redacted] on conversation with Officer-in-Charge [redacted] Former detainees are not allowed to [redacted] needs at all. *Id.* (b)(6), (b)(7)c
21 Notes of delegation member [redacted] on conversation with Officer-in-Charge [redacted]
22 Notes of delegation member (b)(6) on conversation with Officer-in-Charge [redacted]
23 Notes of delegation member [redacted] on conversation with Officer-in-Charge [redacted] Officer-in-Charge (b)(6), (b)(7) indicated that by law the government must notify certain con- whenever its national is detained, whether or not a detainee requests or agrees to such notification. *Id.* The booklet is attached as Exhibit F.
24 Notes of delegation member (b)(6) on conversation with Warden [redacted] (“Warden (b)(6), (b)(7)c
25 Notes of delegation member [redacted] on conversation with Officer-in-Charge [redacted] (b)(6), (b)(7)c
26 Notes of delegation member (b)(6) on conversation with Officer-in-Charge [redacted]
27 Notes of delegation member [redacted] on interview with detainee [redacted] (b)(6)

Executive Office for Immigration Review, in detainee housing units and other appropriate areas.²⁸

EDF appears to substantially meet this section of the *Standards*. Upon arrival, detainees are given a phone list with the numbers of *pro bono* attorneys.²⁹ This list was observed on a bulletin board in the dorm the delegation visited.³⁰ One detainee stated that according to others, the list is outdated and includes incorrect phone numbers, as well as organizations that are no longer functioning.³¹ The delegation recommends that ICE ensure that the list of organizations that is posted is the most current list from EOIR.

b. **Non-legal visits**

The *Standards* suggest that facilities establish written visitation hours and procedures, and to make them available to the public.³² This includes procedures for handling incoming money for detainees.³³ The visiting area is to be “appropriately furnished and arranged and as comfortable and pleasant as practicable.”³⁴ 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.³⁵ Visits should be at least 30 minutes and longer when possible.³⁶ If a facility does not provide for visits from minors, ICE should arrange for visits with children or stepchildren within the detainee’s first 30 days at the facility, with continuing monthly visits.³⁷ 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.³⁸

EDF substantially meets this section of the *Standards*. According to a sign posted at the EDF lobby, detainees’ family and friends are permitted one 60-minute visit per day between the hours of 5:00 p.m. and 10:00 p.m.³⁹ For the most part, anyone who calls ahead of time and whose background has been checked by the OIC can visit the EDF.⁴⁰ Visitors must have legal status in the United States.⁴¹ Non-attorney visits take place in twenty small non-contact booths where detainees communicate with visitors over the phone and see them through a glass or plexiglass window.⁴² The booths are similar to

28 Detention Operations Manual, Detainee Services, Standard 16, Section III

29 Notes of delegation member [REDACTED] on interview with detainee [REDACTED]

30 Notes of delegation member [REDACTED] (b)(6) on interview with detainee [REDACTED] (b)(6)

31 Notes of delegation member [REDACTED] on interview with detainee [REDACTED]

32 Detention Operations Manual, Detainee Services, Standard 17, Section III

33 Detention Operations Manual, Detainee Services, Standard 17, Section III.D.

34 Detention Operations Manual, Detainee Services, Standard 17, Section III.G.

35 Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

36 Detention Operations Manual, Detainee Services, Standard 17, Section III.H.1.

37 Detention Operations Manual, Detainee Services, Standard 17, Section III.H.2.

38 Detention Operations Manual, Detainee Services, Standard 17, Section III.H.5.

39 Notes of delegation member [REDACTED]

40 Notes of delegation member [REDACTED] on conversation with Officer-in-Charge [REDACTED] (b)(6), (b)(7)c

41 Notes of delegation member [REDACTED] (b)(6) on conversation with Officer-in-Charge [REDACTED]

42 Notes of delegation member [REDACTED]

those used in prisons,⁴³ and do not appear to provide a “comfortable and pleasant” visitation experience.

c. **Telephone Access**

i. **General**

The *Standards* require that detainees be provided with “reasonable and equitable access to telephones” during waking hours.⁴⁴ Telephone access rules must be provided to each detainee upon admittance to the facility and posted where easily visible.⁴⁵ One telephone must be available for every 25 detainees and all telephones must be kept in proper working order.⁴⁶ The facility may not restrict the number and duration of telephone calls, except where necessitated by demand of other detainees, the orderly operation of the facility, and emergencies.⁴⁷ Time limits on legal calls must be no shorter than twenty minutes.⁴⁸ Detainees within the Special Management Unit should retain the same telephone privileges as other detainees, except where security requires otherwise.⁴⁹

EDF meets this Standard, but the Handbook should be corrected to reflect the Standards. There appears to be an adequate number of telephones in the facility. The delegation observed a six-person female dormitory unit that contained one telephone and a 40-person male dormitory facility with two telephones.⁵⁰ Each dormitory unit contains at least one telephone.⁵¹ The telephones appeared to be in working order; the delegation observed telephones in use in several of the dormitory units.⁵² Aside from those in the dormitories, no telephones are available to the detainees.⁵³

There is no regular maintenance schedule for the telephones, but repairs are called out to the telephone service provider, PCS, as required.⁵⁴ One detainee indicated that telephones occasionally do not work, although it was unclear whether the problem was with the telephone itself or with the service.⁵⁵ Another detainee reported that the telephones in his dormitory generally work and are promptly fixed when broken.⁵⁶

⁴³ Notes of delegation member John Van Sickle.

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

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

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

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

⁴⁸ Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

⁴⁹ Detention Operations Manual, Detainee Services, Standard 16, Section III.G.

⁵⁰ Notes of delegation member [REDACTED]

⁵¹ Notes of delegation member [REDACTED] on conversation with Warden [REDACTED] (b)(6), (b)(7)c

⁵² Notes of delegation members [REDACTED]

⁵³ Notes of delegation members [REDACTED] on interview with detainee [REDACTED] (b)(6), (b)(7)c

[REDACTED] (b)(6), (b)(7)c

⁵⁴ Notes of delegation member [REDACTED] (b)(6), on conversation with Warden [REDACTED] and Officer-in-Charge [REDACTED] (b)(6), (b)(7)c

⁵⁵ Notes of delegation member [REDACTED] (b)(6), on interview with detainee [REDACTED] (b)(6)

⁵⁶ Notes of delegation member [REDACTED] (b)(6), on interview with detainee [REDACTED] (b)(6)

[REDACTED] (b)(6)

Telephones are available for use by detainees all day until lights out (10:00 pm), except during meals and short periods such as telephone maintenance.⁵⁷

The telephone access policy is detailed in the Detainee Handbook. The handbook describes the general mechanics of telephone calls, including instructions on use of telephones, time limits, purchasing and refilling calling cards, requests for emergency calls and provisions for free calls.⁵⁸ There are no other written telephone policies aside from those in the handbook.⁵⁹

The handbook advises detainees that calls should not last more than fifteen minutes, except calls to consulates and pro bono attorneys which can exceed the normal fifteen minute limit.⁶⁰ This information should be changed to reflect the *Standards'* twenty-minute minimum.⁶¹ In practice, there are no time limits on any calls except where other detainees are waiting to use the telephones.⁶²

Detainees housed in the Special Management Unit retain the same telephone privileges as other detainees.⁶³

ii. Messages

The *Standards* require the facility to deliver messages to detainees as quickly as possible.⁶⁴ For emergency calls, a detailed message must be taken and delivered to detainees as soon as possible; at contract detention facilities (“CDF”) like EDF, messages must be delivered at least three times per day.⁶⁵

EDF has not met this section of the *Standards*; there are problems with attorney communication with detainees. EDF does not have a consistent policy regarding telephone messages for incoming calls. Messages are delivered to detainees on an ad hoc basis.⁶⁶ The staff at EDF generally delivers urgent messages to detainees.⁶⁷ Not all messages from attorneys are delivered to detainees.⁶⁸ The staff will pass on the fact that an attorney called, but will not deliver any substantive message.⁶⁹ Attorneys cannot call to set up meetings with detainees in advance.⁷⁰ During interviews, detainees

⁵⁷ Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7); notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)

⁵⁸ EDF Detainee Handbook, p. 3.

⁵⁹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

⁶⁰ EDF Detainee Handbook, p. 3.

⁶¹ Detention Operations Manual, Detainee Services, Standard 16, Section III.F.

⁶² Notes of delegation member (b)(6) on conversation with Supervisory Office (b)(6), (b)(7)c

⁶³ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

⁶⁴ Detention Operations Manual, Detainee Services, Standard 16, Section I, III.I.

⁶⁵ Detention Operations Manual, Detainee Services, Standard 16, Section I, III.I.

⁶⁶ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

⁶⁷ Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c

⁶⁸ Notes of delegation member (b)(6) on conversation with Supervisory Office (b)(6), (b)(7)c

⁶⁹ Notes of delegation member (b)(6) on conversation with Supervisory Officer (b)(6), (b)(7)c

⁷⁰ Notes of delegation member (b)(6) on conversation with Supervisory Officer (b)(6), (b)(7)c

confirmed that the facility does not deliver telephone messages from attorneys.⁷¹ One detainee said that he had not received messages from his attorneys, despite having been told by his attorneys that they had called and left a message.⁷²

iii. Free Calls and Telephone Usage

The *Standards* require the facility to allow calls to the ICE-provided list of free legal service providers and consulates at no cost.⁷³ At a CDF facility, telephones must be pre-programmed to allow direct free calls to legal service providers and consulates.⁷⁴ All other calls are to be permitted through use of debit cards.⁷⁵

EDF substantially meets this section of the *Standards*; but the high cost of telephone calls and lack of collect calling availability hinders telephone access. EDF has pre-programmed its telephones to permit free calls to legal service providers and consulates.⁷⁶ Officer-in-Charge (b)(6), (b)(7)c provided the delegation with a copy of the “Master List for ICE Preprogrammed Phone Numbers,” which includes telephone numbers for legal service providers and immigration court offices, and the “Master List for INS Preprogrammed Phone Numbers,” which provides telephone numbers for consulates.⁷⁷ The list of telephone numbers, legal service providers and immigration court offices was observed posted on a bulletin board near the entrance to one of the dormitory units, but the list of consulate telephone numbers was not observed on the same bulletin board.⁷⁸ One of the detainees who was interviewed indicated that he had telephoned his consulate and that call was free.⁷⁹

By filling out a form, detainees can purchase debit calling cards with funds from detainees’ commissary accounts.⁸⁰ The handbook indicates that calling cards are available for purchase at intake and thereafter with commissary funds.⁸¹ Two detainees indicated that the per-minute rates on the calling cards are expensive, often as much as \$1 or \$2 per minute for international calls.⁸² On occasion, indigent detainees are permitted

71 Notes of delegation members J (b)(6) on interview with detainee (b)(6) (b)(6); notes of delegation members (b)(6) on interview with detainee (b)(6).

72 Notes of delegation members (b)(6), on interview with detainee (b)(6) (b)(6)

73 Detention Operations Manual, Detainee Services, Standard 16, Section I, III.E.

74 Detention Operations Manual, Detainee Services, Standard 16, Section I, III.E.

75 Detention Operations Manual, Detainee Services, Standard 16, Section I, III.E.

76 Notes of delegation member (b)(6), on conversation with Officer-in-Charge (b)(6), (b)(7)c

77 Attached hereto as Exhibits G and H.

78 Notes of delegation member (b)(6).

79 Notes of delegation members J (b)(6), on interview with detainee (b)(6) (b)(6)

80 Notes of delegation members (b)(6), on interview with detainee (b)(6) (b)(6); notes of delegation member (b)(6), on conversation with Officer-in-Charge (b)(6), (b)(7)c

81 EDF Detainee Handbook, p.3.

82 Notes of delegation members (b)(6), on interview with detainee (b)(6) (b)(6) notes of delegation member (b)(6) on interview with detainee (b)(6)

to make free calls, including international calls.⁸³ Detainees are not permitted to make collect calls.⁸⁴ The delegation believes that the high costs of telephone calls, together with the inability to make collect calls, may hinder detainees' ability to collect evidence for their legal cases, especially in the case of unrepresented detainees. Accordingly, the delegation recommends that EDF and CCA allow detainees to make collect calls and offer for sale the low-cost calling cards that are now readily available outside detention centers.

iv. Privacy for Legal Calls

The *Standards* require the facility to make accommodations to ensure that detainees can make legal calls without being overheard by other detainees, facility staff or officers.⁸⁵

EDF substantially meets this section of the *Standards*. The telephones within each dormitory unit are located near the common area and thus are in public locations without privacy.⁸⁶ There are small privacy panels beside the telephones,⁸⁷ but it is not clear that this ensures privacy for detainees when making legal calls. The delegation suggests that EDF make available to detainees other telephones (for example, private rooms with telephones) that allow for entirely private conversations with counsel.

v. Monitoring of Calls

The *Standards* require the facility to maintain a written policy on the monitoring of telephone calls.⁸⁸ If the facility monitors calls, the facility shall provide notice to detainees in the handbook and a written notice next to each telephone subject to monitoring.⁸⁹ Detainees' calls regarding legal matters must not be monitored without a court order.⁹⁰

It is unclear whether EDF meets this section of the *Standards*; information provided by the handbook and detainees conflicts with information provided by facility staff. While the handbook states that “[a]ll non-legal phone calls are subject to monitoring and/or recording,”⁹¹ Officer-in-Charge (b)(6), (b)(7)E said that EDF does not monitor or record any telephone calls.⁹² Two detainees said that there is a recording at the beginning of each call, audible by both parties to the call, which states that the call is

⁸³ Notes of delegation members J (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)E (b)(6)

⁸⁴ Notes of delegation members J (b)(6), on interview with detainee (b)(6)

⁸⁵ Detention Operations Manual, Detainee Services, Standard 16, Section I, III.J.

⁸⁶ Notes of delegation member (b)(6)

⁸⁷ Notes of delegation member (b)(6)

⁸⁸ Detention Operations Manual, Detainee Services, Standard 16, Section I, III.K.

⁸⁹ Detention Operations Manual, Detainee Services, Standard 16, Section I, III.K.

⁹⁰ Detention Operations Manual, Detainee Services, Standard 16, Section I, III.J, K.

⁹¹ EDF Detainee Handbook, p. 3.

⁹² Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6)

subject to recording and monitoring.⁹³ One of the detainees indicated that he was not aware of any other telephones that he could use that would allow him to have a conversation with his attorney without hearing the message that the telephone call was subject to monitoring.⁹⁴ He said that the attorneys who frequently work with EDF detainees are aware of the recording at the beginning of calls and EDF's policy towards monitoring or recording calls.⁹⁵ The delegation is concerned, however, that the message could hinder full and frank discussions.

d. **Legal Materials**

The *Standards* provide that all facilities “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.”⁹⁶

i. **Access to the Library**

The *Standards* state each facility shall have a “flexible schedule for law library use that permits all detainees, regardless of housing or classification to use the law library on a regular basis.”⁹⁷ Additionally, detainees “shall be permitted to use the law library for a minimum of five (5) hours per week. ... Detainee requests for additional time in the law library shall be accommodated to the extent possible, consistent with orderly and secure operation of the facility. Special priority shall be given to requests for additional library time when a detainee is facing a court deadline.”⁹⁸

EDF substantially meets this section of the *Standards*, although additional hours are apparently not permitted. The facility staff was not certain of the law library hours, but indicated the hours are posted in the detainees' dorms,⁹⁹ and the delegation did observe such a schedule in the women's dorm.¹⁰⁰ The law library schedule rotates access by dorm; the schedules are set up to provide each dorm, and therefore each detainee, with five hours of access per week.¹⁰¹ One detainee stated that library access is limited strictly to one hour per day, with no exceptions.¹⁰² The schedule indicates the law library is open

93 Notes of delegation members (b)(6) on interview with detainee (b)(6)
(b)(6) notes of delegation members (b)(6) on interview with
detainee (b)(6)

94 Notes of delegation members (b)(6), on interview with detainee (b)(6)

95 Notes of delegation members (b)(6), on interview with detainee (b)(6)

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

97 Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

98 Detention Operations Manual, Detainee Services, Standard 1, Section III.G.

99 Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c

100 Notes of delegation member (b)(6)

101 Notes of delegation member (b)(6) on conversation with Supervisory Officer (b)(6), (b)(7)c EDF
Law Library Schedule; notes of delegation members (b)(6), an interview
with detainee (b)(6), (b)(7)c

102 Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

on weekdays from 8:30 a.m. to 3:30 p.m.¹⁰³ These hours are also reflected in the Detainee Handbook.¹⁰⁴ The law library and recreation hours are on separate schedules that do not overlap.¹⁰⁵

ii. **Library Conditions**

The *Standards* state a “facility shall provide a law library in a designated room with sufficient space to facilitate detainees’ legal research and writing. The law library shall be large enough to provide reasonable access to all detainees who request its use. It shall contain a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas.”¹⁰⁶

EDF meets this section of the *Standards*. The law library is located in a room designated solely for that purpose and is equipped with a table capable of seating four to six people.¹⁰⁷ The delegation observed a group of four female detainees using the law library at the time of the tour.¹⁰⁸

iii. **Materials Identified in the Standards**

The *Standards* provide the law library shall contain the materials listed in the chapter on Access to Legal Materials, and “shall post a list of its holdings in the law library.”¹⁰⁹ Unrepresented illiterate or non-English speaking detainees “must be provided with more than access to a set of English-language law books.”¹¹⁰

EDF substantially meets this section of the *Standards*, although detainees lack access to foreign language materials. All legal materials in the law library are held in hard copy; none are held in electronic form.¹¹¹ Officer-in-Charge (b)(6), (b)(7)c indicated that law library holdings are posted in the library.¹¹² The delegation observed that the law library contained most of the materials listed in the *Standards*.¹¹³ However, some materials listed in the *Standards* that could not be located: United States Code, Title 8; Immigration Law and Crimes; the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status; and the Lawyer’s Committee Handbook on Representing Asylum Applicants.¹¹⁴ In addition, the library held a large number of English-foreign

¹⁰³ EDF Law Library Schedule; notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c

¹⁰⁴ EDF Detainee Handbook, Se

¹⁰⁵ Notes of delegation member (b)(6), on conversation with Warden (b)(6), (b)(7)c

¹⁰⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

¹⁰⁷ Notes of delegation member (b)(6)

¹⁰⁸ Notes of delegation member (b)(6)

¹⁰⁹ Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

¹¹⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.L.

¹¹¹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

¹¹² Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

¹¹³ Notes of delegation member (b)(6)

¹¹⁴ Notes of delegation member (b)(6)

language dictionaries.¹¹⁵ However, one detainee, who is Japanese, noted that the library contains no Japanese-English dictionary.¹¹⁶

One detainee indicated the library has useful materials and the librarian is extremely helpful.¹¹⁷ However, he complained that while there are dictionaries in multiple languages available at the library, all legal materials are in English and thus inaccessible to him and many other detainees.¹¹⁸

iv. Updating and Requesting Legal Materials

Under the *Standards* the facility “shall designate an employee with responsibility for updating legal materials, inspecting them weekly, maintaining them in good condition, and replacing them promptly as needed.”¹¹⁹ Additionally, the *Standards* provide that “detainees who require additional legal material not available in the facility law library shall make a written request to the employee responsible for maintaining and updating library materials.”¹²⁰ Finally, the *Standards* state “outside persons and organizations may submit published or unpublished legal material for inclusion in a facility’s law library.”¹²¹

EDF does not appear to fully meet the section of the *Standards* regarding requesting legal materials. The facility has a designated officer, Officer (b)(6), (b)(7), who “periodically” checks on and updates materials in the library.¹²²

While the Detainee Handbook indicates that books not in the library can be requested through Info Link Library Services,¹²³ the facility staff interviewed were not sure if there was a procedure for requesting additional legal materials (though they said there should be).¹²⁴ Warden (b)(6), (b)(7)c indicated that any such materials would be provided upon request, though nothing is issued to the detainees regarding making such requests.¹²⁵ Supervisory Officer (b)(6), (b)(7)c, on the other hand, stated that if a detainee requests a particular item, the staff will “sometimes” ask ICE to send it.¹²⁶ There is therefore a discrepancy between the procedure provided in the Detainee Handbook and the knowledge about such procedures among the facility staff. If staff is not certain of the appropriate procedure, it seems unlikely the procedure is effectively communicated to detainees.

¹¹⁵ Notes of delegation member (b)(6)

¹¹⁶ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
(b)(6), (b)(7)c

¹¹⁷ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

¹¹⁸ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

¹¹⁹ Detention Operations Manual, Detainee Services, Standard 1, Section III.E.

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

¹²¹ Detention Operations Manual, Detainee Services, Standard 1, Section III.D.

¹²² Notes of delegation member (b)(6), on conversation with Warden (b)(6), (b)(7)c

¹²³ EDF Detainee Handbook, Section J.

¹²⁴ Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c

¹²⁵ Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c

¹²⁶ Notes of delegation member (b)(6) on conversation with Supervisory Officer (b)(6), (b)(7)c

The facility staff states that *pro bono* groups, such as the American Friends Service Committee, have in the past provided materials to the library.¹²⁷

v. **Computer Access, Equipment and Photocopiers**

The *Standards* state the law library “shall provide an adequate number of typewriters and/or computers, writing implements, paper, and office supplies to enable detainees to prepare documents for legal proceedings.”¹²⁸

EDF substantially meets this section of the *Standards*. The law library has a typewriter, copier and two computers.¹²⁹ The delegation observed the copier being used,¹³⁰ and both computers were on and appeared to be in working order, though there was not an opportunity to test them.¹³¹ Detainees may use the computers only for word processing.¹³² There is no internet access at the facility.¹³³

The delegation received inconsistent information regarding detainees’ access to floppy discs for use with the computer. The officer on duty in the library stated that detainees are permitted to save word processing work on a floppy disc that must remain in the library.¹³⁴ However, another officer indicated that detainees are not provided discs.¹³⁵

One detainee confirmed that he was permitted free use of the law library equipment.¹³⁶ Another stated that while he has access to the library, one of the two computers available in the law library is usually not functioning.¹³⁷ This detainee also stated that the printer in the library sometimes does not work.¹³⁸

vi. **Photocopiers**

The *Standards* state “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.”¹³⁹

EDF staff and detainees provided conflicting information regarding whether EDF meets this section of the *Standards*. The law library has a small photocopier on

127 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
128 Detention Operations Manual, Detainee Services, Standard 1, Section III.B.
129 Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c
130 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
131 Notes of delegation member (b)(6)
132 Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c
133 Notes of delegation members (b)(6), on interview with detainee (b)(6), (b)(7)c
(b)(6), (b)(7)c
134 Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c
135 Notes of delegation member (b)(6) on conversation with Supervisory Officer (b)(6), (b)(7)c
136 Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
137 Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
138 Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
139 Detention Operations Manual, Standard 1, Section III.J.

which detainees can make free copies.¹⁴⁰ The facility staff states that if the photocopier is broken, the ICE office will make copies for the detainees.¹⁴¹

One detainee stated that officers sometimes deny requests for photocopying, though it was not clear to the delegation whether this was in relation to legal or non-legal documents.¹⁴² Another said he had been limited to making three or four photocopies per day,¹⁴³ and that detainees have missed court deadlines because of copying restrictions.¹⁴⁴

vii. **Assistance From Other Detainees**

The *Standards* provide that the law library “shall permit detainees to assist other detainees in researching and preparing legal documents upon request, except when such assistance poses a security risk.”¹⁴⁵

EDF meets this section of the *Standards*. Facility staff indicated that there is no policy against detainees assisting other detainees,¹⁴⁶ and that detainees are permitted to assist each other in researching and preparing legal documents.¹⁴⁷ During the tour of the law library, the delegation observed a detainee explaining a book to another detainee.¹⁴⁸

One detainee confirmed that detainees are permitted to assist each other when conducting legal research and preparing legal documents.¹⁴⁹

viii. **Law Library Access for Detainees in Special Management Units**

The *Standards* provide that “[d]etainees housed in Administrative Segregation or Disciplinary Segregation units shall have the same law library access as the general population, unless compelling security concerns require limitations.”¹⁵⁰

EDF meets this section of the *Standards*. Detainees housed in segregation are permitted access to the library.¹⁵¹ The Law Library Schedule provides access for the Special Management Unit for one hour each weekday.¹⁵² The facility staff indicates that

¹⁴⁰ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁴¹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁴² Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c
(b)(6), (b)(7)c
¹⁴³ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
¹⁴⁴ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
¹⁴⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.K.
¹⁴⁶ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁴⁷ Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c
¹⁴⁸ Notes of delegation member (b)(6)
¹⁴⁹ Notes of delegation members (b)(6) on interview with (b)(6), (b)(7)c
(b)(6), (b)(7)c
¹⁵⁰ Detention Operations Manual, Detainee Services, Standard 1, Section III.M.
¹⁵¹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁵² EDF Law Library Schedule.

no detainee has been denied access to the library.¹⁵³ If any detainee were denied access, this would be recorded on the detainee's disciplinary report.¹⁵⁴

ix. Retention of Legal Materials

The *Standards* provide that facilities shall permit detainees to retain all personal legal material upon admittance to the general population or segregation, unless such material creates a safety, security, and/or sanitation hazard.¹⁵⁵ The facility may require detainees with a large amount of personal legal material to place some of the material in a personal property storage area, with access permitted during designated hours.¹⁵⁶ Requests for access to stored legal material should be granted within 24 hours of the detainee's request.¹⁵⁷

EDF meets this section of the *Standards*. Detainees may keep legal materials in their dormitories unless the materials are too numerous, in which case they will be put into a storage facility that the detainee can access upon request.¹⁵⁸

e. Group Rights Presentations

The *Standards* provide that facilities "shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures, consistent with the security and orderly operation of each facility."¹⁵⁹ Informational posters are to be prominently displayed in the housing units at least 48 hours in advance of a scheduled presentation.¹⁶⁰ In addition, detainees shall have regular opportunities to view an "INS-approved videotaped presentation on legal rights."¹⁶¹ Facilities should fully cooperate with organizations seeking to make such presentations,¹⁶² and should allow them to meet with individual detainees after the group presentations to discuss their cases.¹⁶³

It appears that EDF substantially meets this section of the *Standards*, however, detainees reported that they have not seen a Know Your Rights video. According to the staff, various *pro bono* groups put on group rights presentations at EDF every Thursday and on certain other days.¹⁶⁴ Typically, these *pro bono* groups are given

¹⁵³ Notes of delegation member [REDACTED] on conversation with Officer-in-Charge [REDACTED]
¹⁵⁴ Notes of delegation member [REDACTED] on conversation with Officer-in-Charge [REDACTED]
¹⁵⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.K.
¹⁵⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.K.
¹⁵⁷ Detention Operations Manual, Detainee Services, Standard 1, Section III.K.
¹⁵⁸ Notes of delegation member [REDACTED] on conversation with Officer-in-Charge [REDACTED] notes of delegation members [REDACTED] on interview with detainee [REDACTED]
¹⁵⁹ [REDACTED] Operations Manual, Detainee Services, Standard 9, Section I.
¹⁶⁰ Detention Operations Manual, Detainee Services, Standard 9, Section III.C.
¹⁶¹ Detention Operations Manual, Detainee Services, Standard 9, Section III.I.
¹⁶² Detention Operations Manual, Detainee Services, Standard 9, Section I.
¹⁶³ Detention Operations Manual, Detainee Services, Standard 9, Section III.G.
¹⁶⁴ Notes of delegation member [REDACTED] on conversation with Officer-in-Charge [REDACTED]

lists of new detainees and then seek out these detainees for the presentations.¹⁶⁵ Detainees may keep any pamphlets or information given out at these meetings, and the presenters are permitted to meet individually with detainees after the presentations.¹⁶⁶ The only limitation is that persons who were previously detained at Elizabeth cannot participate in the presentations.¹⁶⁷ Officer-in-Charge (b)(6), (b)(7)c informed the delegation that he can recall only one instance a few years prior in which a group was banned from making a presentation because the group was trying to “promote a disturbance.”¹⁶⁸

The delegation did not observe any posters announcing a group rights presentation.¹⁶⁹ Two of the detainees interviewed reported that they had never heard of the Florence Project’s “Know Your Rights” video.¹⁷⁰ Officer-in-Charge (b)(6), (b)(7)c seemed to be familiar with the video but uncertain of whether it is available for detainee viewing.¹⁷¹ One detainee said that he has never heard of a group rights presentation taking place or a video on detainee rights being shown in the eight months he has been at the Elizabeth Center, nor has he ever seen a sign announcing such a presentation.¹⁷²

f. Correspondence

The *Standards* require that detainees be allowed to send and receive correspondence in a timely manner, subject only to limitations required for safety, security, and orderly operation of the facility.¹⁷³ General correspondence shall normally be opened and inspected for contraband in the presence of the detainee, but may be opened and read outside the presence of the detainee if security reasons exist for doing so.¹⁷⁴ Special correspondence (e.g. written communication to or from attorneys, legal representatives, judges, courts, government officials, and the news media) is treated differently.¹⁷⁵ Incoming special correspondence can be inspected for contraband only in the presence of the detainee, but may not be read or copied.¹⁷⁶ Outgoing special correspondence cannot be opened, inspected, or read.¹⁷⁷ The detainee handbook must specify how to address correspondence, the definition of special correspondence and how special correspondence should be labeled, and the procedure for purchasing postage and rules for providing indigent detainees free postage.¹⁷⁸ The *Standards* also require that

¹⁶⁵ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁶⁶ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁶⁷ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁶⁸ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁶⁹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁷⁰ Notes of delegation member (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
(b)(6), (b)(7)c
¹⁷¹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
¹⁷² Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
¹⁷³ Detention Operations Manual, Detainee Services, Standard 3, Section I.
¹⁷⁴ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.
¹⁷⁵ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B, E & F.
¹⁷⁶ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & E.
¹⁷⁷ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B & F.
¹⁷⁸ Detention Operations Manual, Detainee Services, Standard 3, Sections III.B.

facilities provide indigent detainees with free postage for mail related to a legal matter, including correspondence to a legal representative, potential representative, or any court, and that indigent detainees be permitted to mail at government expense a “reasonable amount of mail each week.”¹⁷⁹ The facility should also provide paper, writing implements and envelopes at no cost to all detainees.¹⁸⁰ Finally, the *Standards* suggest that facilities notify detainees of specific information regarding correspondence policies.¹⁸¹

EDF appears to meet this section of the *Standards*, but detainees report that detainees (including indigent detainees) are not provided with writing supplies at no cost. Some but not all of the policies regarding correspondence are detailed in the Detainee Handbook,¹⁸² and the detainees interviewed by the delegation appeared to be familiar with these policies.¹⁸³ The Handbook does not specify how to address correspondence, the definition of special correspondence, or how correspondence should be labeled in order to be treated as special correspondence, or that special correspondence may be inspected for contraband but not read.¹⁸⁴ Incoming mail is distributed to detainees on a daily basis.¹⁸⁵ EDF inspects all general correspondence for contraband in the presence of the detainee.¹⁸⁶ The handbook contains a list of “acceptable” items that may be kept in a detainee’s dormitory, but the delegation was informed that the staff determines whether an item sent by mail that is not on the list of acceptable items is unacceptable on a case-by-case basis.¹⁸⁷ Acceptable items sent by mail are typically kept in storage for the detainee until they leave the facility.¹⁸⁸ Monetary gifts are deposited into the detainee’s account, and detainees are given receipts for all money or property

¹⁷⁹ Detention Operations Manual, Detainee Services, Standard 3, Section III.I.

¹⁸⁰ Detention Operations Manual, Detainee Services, Standard 3, Section III.J.

¹⁸¹ Detention Operations Manual, Detainee Services, Standard 3, Section III.B.

¹⁸² EDF Detainee Handbook, p

¹⁸³ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

¹⁸⁴ EDF Detainee Handbook, pp. 10, 11.

¹⁸⁵ Notes of delegation member (b)(6) on conversation with Warden (b)(6) and interview with detainee (b)(6), (b)(7)c

¹⁸⁶ Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c and interview with detainee (b)(6), (b)(7)c

¹⁸⁷ Notes of delegation member (b)(6) on conversation with Warden (b)(6) EDF Detainee Handbook, p. 12.

¹⁸⁸ Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c. However, according to the Detainee Handbook, no packages will be accepted on behalf of detainees. EDF Detainee Handbook, p. 11.

received.¹⁸⁹ Unacceptable items are confiscated and returned to the sender.¹⁹⁰ Special correspondence is not reviewed or read by the staff but is “scanned” for contraband.¹⁹¹

If CCA determines that a detainee is indigent, they will not be required to pay for postage.¹⁹² The Detainee Handbook states that a detainee is considered indigent if there is a balance of less than \$3.00 in his account for thirty days.¹⁹³ However, according to one detainee, a detainee will not be considered indigent unless there is no money in his or her account for twenty consecutive days.¹⁹⁴ The handbook also states that indigent detainees will be given sufficient stationery and postage to send three letters per week.¹⁹⁵ However, the delegation was informed by one detainee that even if a detainee is indigent and is offered free postage, he still must purchase his own pen and paper, thus effectively preventing him from sending mail.¹⁹⁶

4. Other Detention Standards

a. Food Service

The *Standards* state that the overall goal of the food service program is to provide nutritious and appetizing meals to detainees.¹⁹⁷ Detainees must be provided with a menu that incorporates the best nutritional program the facility can afford.¹⁹⁸

Detainees indicated that EDF is not providing adequate food or water. The facility has a dietician on staff who plans meals.¹⁹⁹ While touring the kitchen at the

¹⁸⁹ Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c. However, the Detainee Handbook states that money is contraband and will be confiscated and does not indicate that the money will be kept for use by the detainee. EDF Detainee Handbook, p. 10. One detainee also reported that the Elizabeth Center used to give out a balance state account, but has stopped doing so. Notes of delegation members (b)(6)

on interview with detainee (b)(6), (b)(7)c

¹⁹⁰ Notes of delegation member (b)(6), (b)(7)c on conversation with Warden (b)(6), (b)(7)c

¹⁹¹ Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c

¹⁹² Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c

¹⁹³ EDF Detainee Handbook, p.

¹⁹⁴ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

¹⁹⁵ EDF Detainee Handbook, p. 11. This does not appear to be in accord with the *Standards*, which provide that indigent detainees should be permitted to mail at least five pieces of special correspondence and three pieces of general correspondence per week, as well as all legal correspondence. Detainee Operations Manual, Detainee Services, Standard 3, Section III.I.

¹⁹⁶ Notes of delegation member (b)(6), on interview with detainee (b)(6), (b)(7)c

(b)(6), (b)(7) also stated that pens and paper must be purchased at the commissary. Notes of delegation member (b)(6), on interview with detainee (b)(6), (b)(7)c

¹⁹⁷ Detention Operations Manual, Detainee Services, Standard 7, Section III.D. Food in the EDF is prepared on-site in a large, industrial kitchen. The delegation was able to tour the kitchen. At the time of our visit, approximately three staff members were working in the kitchen supervising eight to nine detainees. Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7). Detainees are permitted to work in the kitchen, but are only involved in the serving of food and cleaning; those who work in the kitchen earn \$1 per day. Notes of delegation member (b)(6)

¹⁹⁸ on conversation with Officer-in-Charge (b)(6), (b)(7).
Detention Operations Manual, Detainee Services, Standard 7, Section III.D.1.

Elizabeth facility, we were shown a sample meal tray, which included macaroni and cheese, chicken, a brownie, and green beans. We were also shown a copy of a weekly meal plan, which contained the following sample meal:

- Orange Juice 4 oz.
- Waffles – 2 each
- Farina – 4 oz.
- Syrup/Oleo
- Corn muffin – 1
- 2% milk – 8 oz.
- Coffee/tea

Although the quantity of food provided based on the sample menu and the tray that the delegation observed appeared adequate, one detainee remarked that he was “scantily fed.”²⁰⁰ Another detainee remarked that there was a lack of fresh fruits and vegetables.²⁰¹ If a detainee misses a meal due to a meeting with a visitor or an attorney, the meal is saved for the detainee.²⁰²

The *Standards* do not require that snack food be provided to detainees. However, detainees are permitted to purchase snack food between regular meals.²⁰³ Detainees purchase snacks from a snack cart.²⁰⁴ Detainees’ commissary accounts are debited when snacks are purchased.²⁰⁵ Items sold in the commissary are, according to one detainee, “extremely expensive.”²⁰⁶ The commissary serves items including soup, coffee, and tea.²⁰⁷ The soups sold in the commissary are instant soups that must be mixed with hot water,²⁰⁸ but there are problems with the water. One of the detainees interviewed stated that detainees are told to use hot tap water from the bathroom in their dormitory to create instant soups.²⁰⁹ Another detainee stated that the water that the detainees use for this purpose and the water that they drink is not potable.²¹⁰ The detainee suggested that the drinking water provided to detainees is the same water that is flushed down the toilets.²¹¹ He said that drinking water and the water that comes out of the hot water taps is almost

199 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7).

200 Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7). (b)(6), (b)(7)c indicated that he believed that detainees were fed scantily to force them to buy additional food from the commissary. *Id.*

201 Notes of delegation member (b)(6) on conversation with detainee (b)(6), (b)(7)c

202 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7).

203 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

204 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

205 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

206 Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

207 Notes of delegation members (b)(6) on conversation with detainee (b)(6), (b)(7)c

208 Notes of delegation member (b)(6) on interview with (b)(6), (b)(7)c Notes of delegation members (b)(6) on interview with (b)(6), (b)(7)c

209 Notes of delegation members (b)(6) on interview with (b)(6), (b)(7)c

210 Notes of delegation members (b)(6) on interview with (b)(6), (b)(7)c

211 Notes of delegation members (b)(6) on interview with (b)(6), (b)(7)c

white, which he believes is due to the excessive amounts of chlorine that is used to treat the water.²¹² Another detainee noted that a formal joint complaint was submitted regarding the lack of hot water.²¹³

The *Standards* require that all reasonable efforts be made to accommodate special food services required by a detainee's particular religion.²¹⁴ The facility accommodates the dietary needs of detainees who engage in religious fasting.²¹⁵ For example, for those detainees who fast for religious holidays like Ramadan, the facility provides prepared meals after sundown, or otherwise accommodates such requests.²¹⁶ The facility does not serve any pork products,²¹⁷ which assists in accommodating the religious needs of some of the population. If a special diet is mandated by the medical staff, it is provided by the kitchen staff.²¹⁸ For instance, a special diet is available for diabetics.²¹⁹ However, one detainee that was interviewed stated that his medically required dietary needs were not being met.²²⁰ He indicated that due to his medical condition, the medical staff recommended that he be served a double fruit portion, but the kitchen manager did not accommodate this request. He also stated that the food served to the general population was also too salty, too fatty, and contained too little fiber to meet his medically required dietary needs.²²¹

b. Recreation

The *Standards* require that each detainee have access to outdoor or indoor recreation for at least one hour daily, five days per week.²²² The facility provides both indoor and outdoor recreation. Detainees are permitted one hour per day, five days per week, of indoor recreation and the same amount of outdoor recreation.²²³ The delegation had the opportunity to observe both recreation areas.

EDF meets this Standard. The outdoor recreation area consists of a square courtyard area in the middle of the facility that is approximately 40 feet by 40 feet. The area has a basketball hoop, a volleyball net, and a bench. Its walls are covered with a

²¹² Notes of delegation members (b)(6) on interview with (b)(6), (b)(7)c

²¹³ Notes of delegation member (b)(6) on interview with (b)(6), (b)(7)c

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

²¹⁵ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
Delegation member (b)(6) also observed a letter on a bulletin board from detainees of the facility thanking the facility staff for "special accommodations" during the Ramadan holidays.

²¹⁶ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²¹⁷ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²¹⁸ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²¹⁹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²²⁰ Notes of delegation member (b)(6) on interview with (b)(6), (b)(7)c

²²¹ Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c

²²² Detention Operations Manual, Detainee Services, Standard 13, Section III.B.

²²³ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

colorful mural.²²⁴ The area receives some natural sunlight from a series of skylights in the center of the roof, which were suspended by a wire or netted frame.²²⁵ If the women are in the outdoor recreation area, the officers close the blinds to the windows on the area to give the women some privacy.²²⁶

The facility has separate indoor recreation areas for males and for females.²²⁷ The delegation observed the following in the men's indoor recreation room: a general library of books, video games, a ping pong table, a large map of the world, board games, a foosball table, chess and checkers, a television and a VCR.²²⁸ The room also contained exercise equipment including a workout machine with attached weights, a stationary bike, and a treadmill.²²⁹ Books can be removed from the indoor recreation area on a sign-out basis.²³⁰

Detainees in segregation receive outdoor and indoor recreation time like other detainees; however, they are segregated in recreation areas.²³¹ Library and recreation hours are on different schedules that do not overlap.²³²

c. Medical Care

The *Standards* require that all detainees have access to medical services that promote detainee health and general well-being.²³³ Each facility is required to have regularly scheduled times, known as sick call, when medical personnel are available to see detainees who have requested medical services.²³⁴ For a facility of over 200 detainees, a minimum of five days per week is suggested.²³⁵ The *Standards* require that the facility have a procedure in place to ensure that all requests for sick call care are received by the medical facility in a timely manner²³⁶ and that facilities have procedures in place to provide emergency medical care for detainees who require it.²³⁷ The *Standards* also require that each facility provide its detainee population with initial

²²⁴ Notes of delegation member (b)(6).

²²⁵ One of the detainees noted that detainees receive very little sunlight. Notes of delegation member (b)(6), on conversation with detainee (b)(6), (b)(7)c. As a consequence, detainees develop skin diseases that could easily be avoided. *Id.*

²²⁶ Notes of delegation member (b)(6) on conversation with Supervisory Officer (b)(6), (b)(7)c.

²²⁷ Observations of delegation member (b)(6).

²²⁸ Notes of delegation members (b)(6). If something of interest to the population is on television, the facility from time to time extends the 10:00 PM curfew at the request (b)(6) es. Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c.

²²⁹ There is no sign-out system for the machines; inmates can use them whenever available. Notes of delegation member (b)(6) on interview with Officer (b)(6), (b)(7)c.

²³⁰ Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c.

²³¹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c.

²³² Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c.

²³³ Detention Operations Manual, Health Services, Standard 2, Section I.

²³⁴ Detention Operations Manual, Health Services, Standard 2, Section III.F.

²³⁵ Detention Operations Manual, Health Services, Standard 2, Section III.F.

²³⁶ Detention Operations Manual, Health Services, Standard 2, Section III.F.

²³⁷ Detention Operations Manual, Health Services, Standard 2, Sections III.A, D and G.

medical screening,²³⁸ that medical treatment not be administered against a detainee's will,²³⁹ and that the facility health care provider release copies of health records be directly to the detainee upon written authorization by the detainee.²⁴⁰ Finally, the *Standards* provide that medication be distributed according to the specific instructions and procedures established by the health care provider.²⁴¹

EDF substantially meets this section of the *Standards*; however, detainees reported that medical care is often delayed and that it can be difficult to obtain medication. On-site health care is available to detainees at the Elizabeth, NJ facility 24 hours per day.²⁴² The facility is run by the U.S. Public Health Service.²⁴³ The delegation had the opportunity to tour the health services facility, and to meet with Lieutenant Commander (b)(6), (b)(7)c, Health Services Administrator, and (b)(6), a physician's assistant.

There are twelve staff on-site in the health services area, including one clinical physician, one doctor, who is a cardiologist, one chief physician, one pharmacist, one physician's assistant, five nurses, one medical records staff person and one administrative assistant.²⁴⁴ During the evening, either a nurse or a physician's assistant is on staff.²⁴⁵ The facility focuses a great deal on mental health. A psychiatrist comes in every Friday, when he has regular appointments with certain inmates, and meets with others on an as-needed basis.²⁴⁶ Detainees receive ongoing dental care at the facility, and there is a dentist who is on-call.²⁴⁷ Medical examinations by a practitioner not associated with ICE are allowed on a case-by-case basis.²⁴⁸

If an EDF detainee requires medical care, he or she must fill out a form to formally request medical treatment.²⁴⁹ Detainees must put a written request for medical

²³⁸ Detention Operations Manual, Health Services, Standard 2, Section III.A.

²³⁹ Detention Operations Manual, Health Services, Standard 2, Section III.L.

²⁴⁰ Detention Operations Manual, Health Services, Standard 2, Section III.M.

²⁴¹ Detention Operations Manual, Health Services, Standard 2, Section III.I.

²⁴² Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁴³ Notes of delegation member (b)(6) on conversation with Commander (b)(6), (b)(7)c

²⁴⁴ (b)(6) delegation member (b)(6) on conversation with Commander (b)(6), (b)(7)c

²⁴⁵ (b)(6), (b)(7)c Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁴⁶ Notes of delegation member (b)(6) on conversation with (b)(6)

²⁴⁷ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c One of the detainees interviewed stated that he once left the facility for treatment of an infection. Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c The detainee did not complain about the dental care, but stated that he was chained in three places before leaving the detention facility and that the chains were not removed during the procedure. *Id.*

²⁴⁸ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c Medications that are received through the mail from family or friends of detainees are returned to the sender as non-approved personal items. Notes of delegation member (b)(6), on conversation with Warden (b)(6), (b)(7)c

²⁴⁹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c Detainees must put a written request for medical care into a box the night before they (b)(6), (b)(7)c to see

care into a box the night before they would like to see a doctor.²⁵⁰ Detainees are then contacted by the health care staff and informed as to when they can see a doctor.²⁵¹ Although none of the detainees interviewed indicated that they had been denied medical attention outright, one of the detainees interviewed stated that the facility is often quite slow in responding to requests for medical care, and that requests for sick calls often had to be made multiple times before treatment was received.²⁵² Another detainee noted that guards act as gatekeepers to the medical personnel and have sometimes hindered his ability to address his medical needs.²⁵³ In addition, the detainee noted that he has had difficulty getting his heart medication despite repeated referrals.²⁵⁴ He also noted that he sometimes does not receive refills before his supply runs out.²⁵⁵

If the detainee does not speak English, doctors need a consent form from the detainee and the doctor in order for an interpreter to be present.²⁵⁶ The on-site health service will arrange for an interpreter to be provided for the detainee.²⁵⁷ The interpreter can be present during the medical examination.²⁵⁸

Detainees are treated on-site whenever possible.²⁵⁹ However, when there is an emergency, the dormitory monitor informs the medical staff and a detainee is seen right away and taken to the hospital immediately.²⁶⁰

When a detainee enters the facility, they are medically screened prior to being integrated into the population.²⁶¹ Detainees receive a dental screening,²⁶² vital signs are

a doctor. Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
However, one detainee stated that he must often make two or three requests before he is seen. *Id.*
250 Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
251 Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
252 Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c This may be explained by a triage type system, as the detainee noted, "you would have to be on the verge of collapse in order to see a doctor immediately." Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
253 Notes of delegation members (b)(6) regarding interview with detainee (b)(6), (b)(7)c
254 Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c
255 Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c
256 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
257 Notes of delegation member (b)(6) on conversation with (b)(6). One detainee stated that the doctors on staff attempt to with all detainees in their native language. Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c
258 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
259 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
260 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
261 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
262 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

taken, a mental health screen takes place, and a purified protein derivative (“PPD”) skin test is given for tuberculosis (“TB”) screening.²⁶³

If a detainee is determined to be HIV positive, the health services staff would set up social services for the individual and would coordinate with Saint Michaels Medical Center in Newark, NJ for infectious disease.²⁶⁴ HIV positive individuals would not be segregated from the general population.²⁶⁵ According to Officer-in-Charge (b)(6), (b)(7)c the facility has not admitted any detainee who is HIV positive to date.²⁶⁶

If a woman is found to be pregnant at the initial screening, she is examined initially in health services, and then is sent to a local hospital for further obstetrics and gynecological care (to either Trinitas Hospital, Elizabeth, NJ, or Elizabeth General Hospital, Elizabeth, NJ).²⁶⁷ Women are also sent off-site to local hospitals for other routine GYN care and testing, such as PAP smears.²⁶⁸

Detainees can get copies of their health records at the facility: these records are treated as their own.²⁶⁹

The *Standards* require that consent forms be obtained from all detainees before any medical examination or treatment is given, except in emergency circumstances.²⁷⁰ When a detainee enters the health services area, there is a treatment authorization form that they must sign before they are treated.²⁷¹ EDF staff said that the facility never provides medical care against a detainee’s will.²⁷²

d. Detainee Classification

The *Standards* require that detention facilities use a classification system and physically separate detainees into different categories.²⁷³ A detainee’s classification is to be determined utilizing “objective” criteria, including criminal offenses, escape attempts, institutional disciplinary history, violent incidents, etc.²⁷⁴ Opinions, unconfirmed and unverified information, and physical characteristics and appearance are not to be taken

²⁶³ Notes of delegation member (b)(6) on conversation with (b)(6).
²⁶⁴ Notes of delegation member (b)(6) on conversation with (b)(6). We are not aware if the facility has housed HIV-positive detainees.
²⁶⁵ Notes of delegation member (b)(6) on conversation with (b)(6).
²⁶⁶ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c. However, according to health care staff, their policy is not to tell facility staff if a detainee is HIV positive or has hepatitis. Notes of delegation member (b)(6).
²⁶⁷ Notes of delegation member (b)(6) on conversation with (b)(6).
²⁶⁸ Notes of delegation member (b)(6) on conversation with (b)(6).
²⁶⁹ Notes of delegation member (b)(6), on conversation with Officer-in-Charge (b)(6), (b)(7)c.
(b)(6).
²⁷⁰ Detention Operations Manual, Health Services, Standard 2, Section I.
²⁷¹ Notes of delegation member (b)(6) on conversation with (b)(6).
²⁷² Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c.
²⁷³ Detention Operations Manual, Detainee Services, Standard 4, Section I.
²⁷⁴ Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

into account.²⁷⁵ 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.²⁷⁶

EDF does not apply this Standard; it does not classify detainees. Detainees are not classified in any way at the facility, including according to security risk.²⁷⁷ The Detainee Handbook contains no reference to classification schemes.²⁷⁸ The facility does not house criminal detainees.²⁷⁹ For these purposes, “criminal” was explained to include not only detainees with domestic or foreign convictions, but also those otherwise regarded as posing a security risk.²⁸⁰ Moreover, any detainee who while at the facility comes to be regarded as violent or a security threat is transferred to a local jail detention facility.²⁸¹ It was not clear to the delegation whether the decision to transfer a detainee for security reasons is based on objective criteria.

e. **Grievance Procedures**

The *Standards* require that every facility develop and implement standard procedures for handling formal and informal detainee grievances.²⁸² Translating assistance for both formal and informal grievances must be provided upon request.²⁸³ 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.”²⁸⁴ All grievances must receive supervisory review, include guarantees against reprisal, and allow for appeals.²⁸⁵

EDF does not meet this section of the Standards; one detainee was told his grievance would not be heard, and another reported that his grievances were not addressed. Officer-in-Charge (b)(6), (b)(7)c stated that grievances are dealt with informally when possible and elevated or referred to ICE when necessary.²⁸⁶ Two detainees stated that grievances are not attended to: one stated that a CCA guard once taunted him, saying that he could complain if he wanted but that it would go nowhere,²⁸⁷ while another stated that although he repeatedly reported that another detainee was threatening him with

²⁷⁵ Detention Operations Manual, Detainee Services, Standard 4, Section III.D.

²⁷⁶ Detention Operations Manual, Detainee Services, Standard 4, Section III.I.

²⁷⁷ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁷⁸ EDF Detainee Handbook.

²⁷⁹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁸⁰ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁸¹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁸² Detention Operations Manual, Detainee Services, Standard 5, Sections I. & III.A.

²⁸³ Detention Operations Manual, Detainee Services, Standard 5, Sections III.A.1. & 2.

²⁸⁴ Detention Operations Manual, Detainee Services, Standard 5, Section I.

²⁸⁵ Detention Operations Manual, Detainee Services, Standard 5, Sections I. & III.C.

²⁸⁶ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁸⁷ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

physical violence, his pleas were ignored.²⁸⁸ One detainee stated that his grievances are attended to only when he involves his lawyer.²⁸⁹ The delegation believes the detainees' comments are cause for concern, and encourages EDF to review its responsiveness to detainee grievances.

f. **Staff-Detainee Communication (ICE Presence and Communication with Detainees)**

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.”²⁹⁰ The *Standards* suggest that both weekly visits be conducted by ICE personnel and that “regular unannounced (not scheduled) visits” be conducted by the ICE OIC, the Assistant OIC, and designated department heads.²⁹¹ Unannounced visits to the facility’s housing areas must be conducted on a weekly basis at Service Processing Centers and CDFs.²⁹² The purpose of such visits is to monitor housing conditions, interview detainees, review records, and answer questions for detainees who do not comprehend the immigration removal process.²⁹³ The *Standards* also require that detainees “have the opportunity to submit written questions, requests, or concerns to ICE staff,” which “shall be delivered to ICE staff by authorized personnel (not detainees) without reading, altering, or delay.”²⁹⁴

EDF meets this section of the *Standards*; ICE maintains an on-site presence at the facility.²⁹⁵ ICE maintains offices separate from those of CCA personnel, but ICE officers are in the detention facility and interact with detainees daily.²⁹⁶ Officer-in-Charge (b)(6), (b)(7)c indicated that detainees have the opportunity to speak with these ICE personnel when they choose.²⁹⁷ Among these ICE personnel are detention and deportation officers, whom detainees may communicate with if they choose.²⁹⁸ Two deportation officer offices are located in the visitation room.²⁹⁹

g. **Money and Personal Property**

The *Standards* provide that all facilities must provide for the control and safeguarding of detainees’ personal property. This will include the secure storage of funds, valuables, baggage and other personal property, a procedure for documenting and

²⁸⁸ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

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

²⁹⁰ Detention Operations Manual, Detainee Services, Standard 15, Section I.

²⁹¹ Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

²⁹² Detention Operations Manual, Detainee Services, Standard 15, Section III.A.1.

²⁹³ Detention Operations Manual, Detainee Services, Standard 15, Section III.A.

²⁹⁴ Detention Operations Manual, Detainee Services, Standard 15, Section III.B.

²⁹⁵ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁹⁶ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁹⁷ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁹⁸ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

²⁹⁹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

issuing receipts for surrendered property, and initial and regularly scheduled inventories of all funds, valuables and other property.

EDF substantially meets this section of the *Standards*, but the delegation is concerned about some procedures relating to confiscated detainee funds. Facility staff informed the delegation that money received or earned by a detainee goes into a personal account held for that detainee at the facility,³⁰⁰ and detainees are given receipts for all money or property received.³⁰¹ However, the Detainee Handbook states that money is contraband and will be confiscated; it does not indicate that the money will be kept for use by the detainee.³⁰² Excess personal property is held in a storage facility that the detainee can access upon request.³⁰³ One detainee reported that EDF used to give out a balance statement of the money in a detainee’s account, but has stopped doing so.³⁰⁴ Another detainee noted that he had extreme difficulty accessing his personal funds.³⁰⁵

The delegation is concerned by the description of procedures relating to money suspected of being counterfeit. Officer-in-Charge (b)(6), (b)(7)c stated that staff members seize any money they determine to be counterfeit.³⁰⁶ Officer-in-Charge (b)(6), (b)(7)c said EDF staff have a way of distinguishing between real and counterfeit money.³⁰⁷ He also said law enforcement officers are not often contacted when money is seized, because the authorities have no time for the small amounts normally seized.³⁰⁸ The delegation is concerned that this process may result in detainees having their non-counterfeit money withheld from them.

h. Religious Accommodation

The *Standards* provide that detainees of different religious beliefs be provided with reasonable and equitable opportunities to participate in the practices of their respective faiths.³⁰⁹ According to the *Standards*, these “opportunities will exist for all equally, regardless of the number of practitioners of a given religion, whether the religion is ‘mainstream,’ whether the religion is ‘Western’ or ‘Eastern,’ or other such factors.”³¹⁰

300 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
301 Notes of delegation member (b)(6) on conversation with Warden (b)(6), (b)(7)c
302 EDF Detainee Handbook, p. 10.
303 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c; notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c
(b)(6), (b)(7)c
304 Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c
(b)(6), (b)(7)c
305 Notes of delegation members (b)(6) on interview with detainee (b)(6), (b)(7)c
(b)(6), (b)(7)c
306 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
307 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
308 Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c
309 Detention Operations Manual, Detainee Services, Standard 14, Section I.
310 Detention Operations Manual, Detainee Services, Standard 14, Section I.

EDF meets this Standard, although one detainee reported that he was threatened because of his religion and that the facility did not respond. The Elizabeth facility has designated the men’s and women’s indoor recreation areas as the place used for religious meetings.³¹¹ Detainees are also free to practice their religions in their dormitory rooms.³¹² The indoor recreation room is available and open to all religions.³¹³ A schedule of religious services is posted on the bulletin boards throughout the facility and in each dormitory room.³¹⁴ Religious services take place at regularly planned dates and times, and each religion is allocated a separate time for its service.³¹⁵ When religious services are scheduled, detainees not participating are not permitted to be in the room for general recreation.³¹⁶ For this reason, services are quiet.³¹⁷ Religious services are sometimes performed by outside groups that visit the facility.³¹⁸ Volunteer religious organizations are subjected to background checks before they can perform services on-site.³¹⁹

The *Standards* provide that no one can disparage the religious beliefs of a detainee, nor coerce or harass a detainee to change religious affiliation.³²⁰ One detainee noted that he had been threatened by another detainee allegedly because of his religion.³²¹ The detainee indicated that although he complained about the incident to the administration, no action was taken, including protective action.³²²

The *Standards* require that detainees have access to religious personal property, consistent with facility security. The delegation observed large plastic cabinets in the men’s indoor recreation room which are used for the storage of religious items and materials used for religious services. The bins were along a wall inside of the men’s recreation room and were locked for security. While in the indoor recreation room, the delegation observed detainees pulling prayer rugs out of the plastic bin marked “Islamic” to set up for a 1:00 p.m. Friday service.

³¹¹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c. Although we only observed the male indoor recreation room, females have their own religious services in the female recreation room. Notes of delegation member (b)(6) on conversation with Officer

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

³¹² Notes of delegation member (b)(6). A woman in Muslim robing was also observed praying in her room. Notes of delegation member (b)(6)

³¹³ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)

³¹⁴ The delegation members observed this schedule in the dormitory room that was toured.

³¹⁵ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6)

³¹⁶ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6)

³¹⁷ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

³¹⁸ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c. For example, an Imam comes to oversee the Islamic religious services. Notes of delegation member (b)(6) on conversation with Officer (b)(6), (b)(7)c. If he cannot be present at services, one of the detainees will preside instead. *Id.*

³¹⁹ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

³²⁰ Detention Operations Manual, Detainee Services, Standard 14, Section III.A.

³²¹ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c. a Christian detainee, described an incident in which a Muslim detainee was physically abusive towards him and threatened to kill him.

³²² Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

Detainees are permitted to designate a religious preference upon intake at the facility.³²³ They are also permitted to keep rosaries and prayer rugs in their possession.³²⁴ The facility does not discourage detainees from wearing religious headwear.³²⁵

i. Detainee Treatment

The *Standards* provide for basic human rights, including the right to safe and sanitary facilities and the right to be free from abuse.³²⁶ In addition, the *Standards* state that “[o]fficers shall use as little force as necessary to gain control of the detainee.”³²⁷

Two detainees remarked that EDF is run like a prison and that detainees are treated like prisoners.³²⁸ One detainee indicated that he had been handcuffed and shackled (hands and feet) when taken to court,³²⁹ and another that he had been chained in three places for a visit to a dentist.³³⁰ Pat-down searches appear to be common at EDF: one detainee said that pat-downs are sometimes done several times per day,³³¹ and another detainee said that these are sometimes done roughly.³³²

5. Conclusion

The delegation believes that EDF substantially meets several key *Standards*, but that there remains much room for improvement.

Attorney visitation access at EDF appears to be quite good. Detainees do not seem to have substantial problems seeing their attorneys in person once a relationship has been established. The delegation praises EDF for not only meeting the *Standards* in this regard, but also for their apparent flexibility in allowing legal visits to run long when necessary. We note, however that the lack of an up-to-date EOIR *pro bono* attorney list, together with EDF’s wariness of suspected “fake” attorneys may prevent some attorney-client relationships from forming in the first place, and we encourage EDF to consider whether its fears may be doing more harm than good. The delegation believes that detainees are in the best position to decide whether to accept an attorney’s offer of services and should be allowed to make this choice themselves.

³²³ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

³²⁴ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c. Officer-in-Charge (b)(6), (b)(7)c indicated that he was not sure whether the facility permitted religious oils to be kept in detainees’ possession, but said that items like a religious powder would not be permitted in the interests of safety. *Id.*

³²⁵ Notes of delegation member (b)(6) on conversation with Officer-in-Charge (b)(6), (b)(7)c

³²⁶ See, e.g., Detention Operation Manual, Health Services, Standard 2, Section I; Security and Control, Standard 17, Sections I & III.

³²⁷ Detention Operation Manual, Security and Control, Standard 17, Section I.

³²⁸ 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

³²⁹ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

³³⁰ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

³³¹ Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

³³² Notes of delegation member (b)(6) on interview with detainee (b)(6), (b)(7)c

While phone access is excellent in terms of the availability of phones for outgoing calls, EDF personnel should relay attorney phone messages to detainees, as the *Standards* provide, since such messages can be important for detainees' preparation for court hearings. In addition, the delegation encourages ICE and EDF to lower the cost of phone calls, as detainees appear to be paying more than the actual cost to the facility. Furthermore, better privacy screening for the telephones or private booths would improve the confidentiality of calls with counsel.

Overall the library seems to be well equipped, and detainees appear to find it useful. However, while EDF does provide the minimum weekly access of five hours, this schedule is not flexible, and would not accommodate detainees whose library needs are not so regular. The delegation believes that this restriction, as well as apparent restrictions on the number of copies that can be made and EDF's apparent failure to provide free writing materials, may practically limit the usefulness of this important resource. The delegation would also recommend that the library be located in a larger room that would allow more detainees to use it.

The delegation was impressed with the medical facility and staff and praises their awareness of the importance of detainees' mental health. However, the delegation notes that more than one detainee complained about the healthiness of the food menu. Because detention for many detainees is quite lengthy, more fresh fruits and vegetables should be added to the menu.

Finally, we note that two detainees the delegation interviewed said that they were, in general, treated like criminals. While any detention may lead to this impression to some extent, the delegation notes that the highly regimented and scheduled approach EDF takes with regard to nearly every aspect of detainees' lives, including frequent pat-down searches, may exacerbate this feeling. The delegation notes that EDF houses only non-criminals, and therefore encourages EDF to consider what measures it might take, consistent with maintaining security, to alleviate this impression.

The delegation wishes to thank the staff of both ICE and CCA for their candor and cooperation during the delegation's visit, and wishes them the best as they continue to improve the facility and further meet the *Standards*.