

# Supplemental Report on September 11 Detainees' Allegations of Abuse at the Metropolitan Detention Center in Brooklyn, New York



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## I. INTRODUCTION

This report details the investigation conducted by the Office of the Inspector General (OIG) concerning allegations that staff members of the Federal Bureau of Prisons' (BOP) Metropolitan Detention Center (MDC) in Brooklyn, New York, physically and verbally abused aliens who were detained in connection with the terrorist attacks of September 11, 2001.<sup>1</sup> In June 2003, we issued a broader, 198-page report evaluating the treatment of 762 detainees who were held on immigration charges in connection with the investigation of the September 11 attacks.<sup>2</sup> In that report, we examined how the Department of Justice (Department) handled these detainees, including their processing, their bond decisions, the timing of their removal from the United States or their release from custody, their access to counsel, and their conditions of confinement.

In Chapter 7 of the Detainee Report, we described the treatment of September 11 detainees in the MDC, and we concluded that the conditions were excessively restrictive and unduly harsh. Those conditions included inadequate access to counsel, sporadic and mistaken information to detainees' families and attorneys about where they were being detained, lockdown for at least 23 hours a day, cells remaining illuminated 24 hours a day, detainees placed in heavy restraints whenever they were moved outside their cells, limited access to recreation, and inadequate notice to detainees about the process for filing complaints about their treatment.

We also concluded in the Detainee Report that evidence showed some MDC correctional officers physically and verbally abused some September 11 detainees, particularly during the months immediately following the September 11 attacks. However, we noted in our report that our investigation of physical and verbal abuse was not completed, and we stated that we would provide our findings in a separate report. This report details our findings and conclusions from the investigation.

We have provided the results of our investigation to managers at BOP Headquarters for their review and appropriate disciplinary action. In the report to the BOP, we include an Appendix identifying those staff members who we believe committed misconduct or exercised poor judgment and setting forth the

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<sup>1</sup> In this report, "staff members" refers to MDC employees, including correctional officers, lieutenants, management officials, and other personnel.

<sup>2</sup> See "The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks" ("Detainee Report"), issued June 2, 2003. The report is located on the OIG's website at <http://www.usdoj.gov/oig/special/03-06/index.htm>.

specific evidence against them. In the Appendix, we also describe the allegations against specific officers that we did not substantiate.

As discussed in detail below, our investigation developed evidence substantiating allegations that MDC staff members physically and verbally abused September 11 detainees. In the Appendix referenced above, we recommend that the BOP consider taking disciplinary action against ten current BOP employees, counseling two current MDC employees, and informing employers of four former staff members about our findings against them.

## **A. Background**

### **1. Detainee Arrival and Confinement at the MDC**

As discussed in detail in the Detainee Report, the Department used federal immigration laws to detain aliens in the United States who were suspected of having ties to the September 11 attacks or connections to terrorism, or who were encountered during the course of the terrorism investigation conducted by the Federal Bureau of Investigation (FBI). In the first 11 months after the attacks, 762 aliens were detained in connection with the FBI terrorism investigation for various immigration offenses, including overstaying their visas and entering the country illegally.

A total of 84 of these aliens were confined at the MDC on immigration charges in the 11 months after the attacks. The facility at which a September 11 detainee was confined was determined mainly by the FBI's assessment of the detainee's potential links to the September 11 investigation or ties to terrorism. The FBI assessed detainees as "high interest," "of interest," or "undetermined interest."<sup>3</sup> Generally, those labeled of "high interest" were confined at the MDC.

The MDC is a 9-story high-security BOP prison in Brooklyn, New York, that generally houses men and women either convicted of criminal offenses or awaiting trial or sentencing.<sup>4</sup> The majority of the MDC inmates are housed in the facility's General Population Unit. Some inmates are confined in the Special Housing Unit (SHU), which normally holds inmates who are disruptive, pose a security risk, or need protection as witnesses. When MDC officials learned that they would receive aliens deemed potential suspects in the FBI's

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<sup>3</sup> As we described in our Detainee Report, we concluded that the FBI in New York indiscriminately applied these labels to aliens and that the FBI took much longer than Department officials expected to clear these aliens of any connection to terrorism.

<sup>4</sup> During the period reviewed in our Detainee Report, the MDC housed 2,441 men and 181 women.

terrorism investigation, the MDC modified one wing of the SHU to accommodate these “high security” detainees and labeled the modified wing the “administrative maximum” or “ADMAX” SHU. The ADMAX SHU was designed to confine the detainees in the most restrictive and secure conditions permitted by BOP policy.

The detainees began to arrive at the MDC on September 14, 2001. They were transported often in armed convoys and generally by federal agents from the Immigration and Naturalization Service (INS). The transport vehicles holding the detainees entered the MDC through the U.S. Marshal’s sally port, which is similar to a large garage and is connected to the Receiving and Discharge (R&D) area of the MDC. Once inside the sally port, the transport vehicle was met by four to seven BOP staff members who removed the detainee from the vehicle. The staff members then put the detainee next to a wall directly adjacent to the transport vehicle and performed a “pat search” during which the detainee was frisked and the restraints in which the detainee arrived were exchanged for BOP restraints. The BOP officers then walked the detainees up a ramp in the sally port through a set of doors leading to a holding cell in R&D.

In R&D, the detainees were taken one at a time from the holding cell to be fingerprinted, photographed, examined, and then strip searched with restraints removed.<sup>5</sup> They received prison clothes, were once again fully restrained in metal handcuffs attached to a waist chain that was connected to ankle cuffs, and were taken up the elevator to the ninth floor of the MDC.

On the ninth floor, the detainees were taken to the ADMAX SHU, where they were strip searched again and locked in their cells alone or with one other detainee. Detainees remained in their cells at least 23 hours a day. Until late February 2002, the cells were constantly illuminated.

The ADMAX SHU range was shaped like a rectangle, with cells down one side of two long corridors. Four recreation cells separated by chain-link walls and with chain-link, open-air ceilings were located in the middle of the rectangular range. MDC staff members used a multipurpose room located at the end of the ADMAX SHU range for medical examinations, strip searches, and meetings. A room adjacent to the multipurpose room was used as a lieutenant’s office.

The ADMAX SHU was separated from the regular SHU by an area containing a holding cell, the SHU lieutenant’s office, and a visiting area where attorneys and family members met with the September 11 detainees. These

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<sup>5</sup> The BOP technically refers to strip searches as “visual searches,” but every MDC staff member we interviewed referred to them as “strip searches.”

visits occurred in “non-contact” rooms, meaning a clear partition precluded any physical contact between parties.

As described in the Detainee Report, the MDC confined the September 11 detainees under highly restrictive conditions. For example, the MDC instituted a four-man hold restraint policy with respect to moving the detainees. This meant that whenever a detainee was taken from his cell, he was escorted by three officers and a lieutenant at all times. During routine escorts on the ADMAX SHU, the detainees also were handcuffed behind their backs and placed in leg restraints. When they were escorted to visits, interviews, or out of the MDC, the detainees were handcuffed in front, restrained in a waist chain, and placed in leg restraints.

On approximately October 5, 2001, as a result of an incident involving a detainee who alleged that he was injured by MDC staff members, the MDC instituted a policy requiring officers to videotape detainees with handheld video cameras whenever they were outside their assigned cells, including when they first arrived at the MDC.<sup>6</sup> As described below, however, we found that staff members did not always adhere to this policy.

## **2. Atmosphere at the MDC Following September 11**

As we discussed in the Detainee Report, we recognize that the impact of the terrorist attacks of September 11, 2001, was particularly pronounced for people living or working in the New York City area. Some of the MDC staff members lost relatives, friends, and colleagues in the attacks. Moreover, the staff was working under difficult conditions on the ADMAX SHU, with many working 12-hour shifts, six or seven days a week, for extended periods of time. In addition, based on the vague label attached to the detainees by the FBI, the MDC staff initially was led to believe that the detainees could be terrorists or that they may have played a role in the September 11 attacks.

Many of the staff members we interviewed described the atmosphere at the MDC immediately after September 11 as emotionally charged. One of the lieutenants currently at the MDC said the staff “had a great deal of anger” after September 11 and that it was a chaotic time at the MDC. Another lieutenant, one of the lieutenants responsible for escorting detainees, stated that upon entering the institution the detainees were handed over to teams of five to seven officers who were “spiked with adrenaline.” He said that there were some officers on the escort teams who were “getting ready for battle” and “talking crazy.” Another lieutenant responsible for escorting detainees similarly described the officers as “high on adrenaline.”

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<sup>6</sup> Later in October 2001, the requirement of videotaping all detainee movements became a BOP-wide policy.

Even though the atmosphere was emotionally charged, none of the current or former staff members we interviewed suggested that the terrorist attacks justified engaging in abusive behavior towards the detainees. To the contrary, nearly all of the MDC staff members we interviewed asserted that they and other staff members always behaved professionally with the detainees.

Yet, as we describe below, these staff members' depictions of their actions were undermined substantially by the consistent allegations of the detainees, the statements of several other MDC staff members, the statements of senior BOP officials, and the videotapes we reviewed.

### **3. The OIG Investigation**

In mid-October 2001, the BOP's Office of Internal Affairs (OIA) first referred to the OIG several allegations of physical abuse at the MDC. The OIG's New York Field Office (NYFO) initiated a criminal investigation into allegations that several detainees were slammed against walls by MDC staff members when they first arrived at the MDC. The NYFO interviewed the detainees who made allegations, obtained their medical records, and interviewed several MDC staff members. In conducting this investigation, the NYFO consulted with prosecutors from the Department's Civil Rights Division (CRT) and the United States Attorney's Office (USAO) for the Eastern District of New York.

In addition to the allegations investigated by the NYFO, the detainees made other allegations of physical and verbal abuse against MDC staff members. The CRT assigned some of these additional allegations to the FBI for investigation, and the OIG referred several allegations to the BOP OIA for investigation.

On September 25, 2002, the CRT and the USAO declined criminal prosecution of the MDC staff members who were the focus of the NYFO's investigation. However, even if a matter is declined criminally, the OIG can continue that investigation to determine if there was misconduct that should result in disciplinary or other administrative action. The OIG therefore pursued this investigation as an administrative matter after prosecution was declined.

Other allegations of detainee abuse assigned to the FBI and the BOP OIA also were considered and declined for criminal prosecution. In March 2003, the OIG took over all of the cases that had been referred to the FBI and the BOP OIA and consolidated them into a comprehensive administrative investigation into allegations that some MDC staff members physically and verbally abused some September 11 detainees. This administrative investigation was led by two OIG attorneys, one of whom is a former federal

prosecutor in the Public Integrity Section of the Department. This report describes the results of our investigation.

The relevant time period under review was from September 2001 to August 2002, when the detainees were housed in the ADMAX SHU of the MDC. Our review focused solely on complaints at the MDC.

After consolidating approximately 30 detainees' reported allegations against approximately 20 MDC staff members, we sorted the allegations of physical abuse into the following six categories:

1. Slamming detainees against walls;
2. Bending or twisting detainees' arms, hands, wrists, and fingers;
3. Lifting restrained detainees off the ground by their arms, and pulling their arms and handcuffs;
4. Stepping on detainees' leg restraint chains;
5. Using restraints improperly; and
6. Handling detainees in an otherwise rough or inappropriate manner.

The detainees also alleged that MDC staff members verbally abused them by referring to them as "terrorists" and other offensive names; threatened them; cursed at them; and made offensive comments during strip searches.

In the OIG's review of these allegations, we conducted more than 115 interviews of detainees, MDC staff members, and other individuals. The staff members we interviewed primarily were correctional officers and lieutenants who had been assigned to the ADMAX SHU after September 11, 2001, or were involved in escorting the detainees on and off the ADMAX SHU. Almost all of the interviews of the current staff members were administratively compelled, meaning that the employees were required to appear and answer questions.<sup>7</sup> In many cases a union representative, who also was a staff member at the MDC, attended the interview with the employees.

In addition to the correctional officers and lieutenants, we interviewed MDC management officials, internal affairs investigators, and the physician's

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<sup>7</sup> In a compelled interview, Department employees are required to answer questions from the OIG. Compelled interviews normally occur after criminal prosecution of a subject is declined, or if a witness does not voluntarily agree to cooperate. The statements in a compelled interview cannot be used against the person in a criminal proceeding. If an employee refuses to answer the OIG's questions or fails to reply fully and truthfully in an interview, disciplinary action, including dismissal, can be taken against the employee.



assistant who was responsible for the detainees' medical needs and evaluations, including examining injuries and monitoring detainees' health during hunger strikes. We also interviewed a senior BOP official who until this year oversaw correctional operations at the BOP during the relevant period, and a senior BOP official who has been responsible since 2000 for training new BOP officers on restraint and escort techniques.

We also interviewed federal officers, mostly from the former INS, who were involved in transporting the detainees to the MDC. In addition, we interviewed an attorney for one of the detainees who visited his client at the MDC and said that he witnessed abuse.

We reviewed medical records and incident reports for the detainees from the MDC's files. We also reviewed MDC videotapes, including hundreds of tapes showing detainees being moved around the facility, tapes from cameras in the detainees' cells, and several tapes depicting officers using force in specific operations against certain detainees. As will be detailed later in this report, MDC officials repeatedly told the OIG that videotapes of general detainee movements no longer existed. That information was inaccurate. In late August 2003, the OIG discovered more than 300 videotapes at the MDC, primarily spanning the period from early October through November 2001, and we reviewed all of those tapes. While these tapes substantiated many of the detainees' allegations, detainees indicated to us that abuse dropped off precipitously after the video cameras were introduced.

## **B. Report Outline**

This report is divided into three main sections. First, the report discusses the evidence regarding allegations that the detainees were physically and verbally abused at the MDC. Second, the report describes several issues of concern relating to the systemic treatment of the detainees at the MDC. Finally, the report offers recommendations to address the issues discussed in this report.

In an appendix to this report, we provide to the BOP our findings on specific MDC staff members, current and former, who handled the detainees. That section of the report will not be released publicly because of the privacy interests of those individuals as well as the potential of disciplinary proceedings against them. In the Appendix, we recommend that the BOP consider taking disciplinary action against ten current BOP employees, counseling two current MDC employees, and informing employers of four former staff members about our findings against them. We also recommend that the BOP take appropriate disciplinary action against several unidentified staff members who we observed on videotapes physically abusing detainees or behaving unprofessionally.

## **II. PHYSICAL AND VERBAL ABUSE**

Our investigation developed evidence that approximately 16 to 20 MDC staff members, a significant number of the officers who had regular contact with the detainees, violated BOP policy by physically or verbally abusing some detainees. For the purposes of this report, we consider “physical abuse” to be the handling of the detainees in ways that physically hurt or injure them without serving any correctional purpose. Under BOP Program Statement (P.S.) 5566.05, improper handling includes instances when staff members use more force than necessary on the detainees or cause the detainees unnecessary physical pain or extreme discomfort. Similarly, we consider “verbal abuse” to be insults, coarse language, and threats to physically harm or inappropriately punish detainees, all of which violate BOP P.S. 3420.09, “Standards of Employee Conduct.”

We discuss in this section the general evidence that staff members physically and verbally abused some detainees.

### **A. Physical Abuse**

#### **1. Slamming, Bouncing, and Ramming Detainees Against Walls**

Most of the detainees who made allegations of abuse specifically alleged that MDC staff members slammed them into walls. Several detainees also alleged staff members slammed them into doors and the sides of the elevator that took them up to the ADMAX SHU. According to approximately ten detainees, staff members slammed them against walls on their first day at the MDC while they were in R&D. Detainees also alleged staff members sometimes slammed them into walls in the ADMAX SHU during escorts to and from attorney visits, doctor visits, or recreation, but not as frequently as in R&D. The detainees alleged that these slamming incidents occurred when they were being fully compliant with the officers and were not resisting.

For example, one detainee told us that immediately after he arrived at the MDC, staff members took him out of the van, “slammed” him against a wall, and warned him that they would break his neck if he moved. Another detainee also stated that officers repeatedly “slammed” him against the wall in R&D on the day he arrived. Another detainee stated that on his first day at the MDC, officers painfully “slammed” him back and forth against walls in the ADMAX SHU all the way to his cell. In addition, another detainee stated that he was “slammed” against the wall in the sally port and that the experience was very painful. In all of these cases, the detainees claimed that they were fully compliant with staff members’ instructions.

Detainees said they were slammed into walls much more frequently before the handheld video cameras were introduced in October 2001 than after. One detainee stated staff members told him things like, “If the camera wasn’t on I would have bashed your face,” and “The camera is your best friend.” Detainees also told us that their treatment by the staff at the MDC was worse than their treatment by officers at other institutions. Few made complaints of mistreatment by other officers outside of the MDC.

Our efforts to substantiate or refute allegations that staff members slammed detainees against walls were hindered to some extent because: (1) detainees’ escorts were not videotaped until early October 2001, after many of the detainees already had arrived; (2) even after the MDC instituted the policy requiring all detainee escorts be taped, some detainees’ escorts were not taped;<sup>8</sup> and (3) a significant number of detainee videotapes were recycled or destroyed, in accordance with a regional policy directive issued in December 2001 that allowed the tapes to be re-used or destroyed after 30 days. These issues are discussed more fully below under section III (F), “Obtaining Videotapes from the MDC.”

BOP policy prohibits staff members from using more force than necessary on inmates. BOP P.S. 3420.09, “Standards of Employee Conduct,” states, “An employee may not use brutality, physical violence, intimidation toward inmates, or use any force beyond that which is reasonably necessary to subdue an inmate.” Similarly, BOP P.S. 5566.05, “Use of Force and Application of Restraints on Inmates,” authorizes staff members to use force on inmates only as a last alternative after all other reasonable efforts to resolve a situation have failed. It states that even when force is authorized, staff members must not use more force than necessary on the inmates, or cause them unnecessary physical pain or extreme discomfort.<sup>9</sup>

We spoke with two senior BOP officials concerning slamming or bouncing inmates against the wall. One of the officials, who had oversight responsibilities for correctional operations during the relevant time period, stated that unless an inmate is combative or resisting, slamming the inmate into a wall is improper and violates the BOP’s policy on “use of force.” The other official, who is responsible for training new BOP officers, confirmed that slamming a compliant inmate against the wall is not an appropriate control or

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<sup>8</sup> An officer confirmed to us that not all escorts were recorded. He stated that some movements were not recorded because the officers were unable to find a camcorder. He said that even though seven camcorders were purchased for the ADMAX SHU, over time the camcorders started to disappear.

<sup>9</sup> BOP P.S. 5566.05 provides: When authorized, staff must use only that amount of force necessary to gain control of the inmate; to protect and ensure the safety of inmates, staff, and others; to prevent serious property damage; and to ensure institution security and good order.

escort technique. Both officials stated that slamming, bouncing, and firmly pressing compliant inmates against the wall violates BOP policy.

A former MDC lieutenant, who was one of the lieutenants in charge of escorting the detainees to and from the ADMAX SHU (hereinafter "Lieutenant 1"), corroborated detainees' allegations of slamming. He stated that before the MDC began videotaping all detainee movements, which was on or about October 5, 2001, almost all of the detainees were slammed against walls, particularly in the sally port. He also stated he witnessed staff members "bounce" detainees against the wall. Lieutenant 1 explained that "slamming" a detainee against the wall was when officers shoved the detainee into the wall and held him there, and "bouncing" a detainee off the wall was when officers shoved the detainee into the wall and then quickly pulled him back. Lieutenant 1 said "pressing" a detainee against the wall was when officers used physical force to keep a detainee's chest against the wall.

Lieutenant 1 said he witnessed officers unnecessarily slam, bounce, and forcefully press detainees against the wall. Lieutenant 1 told us that some officers took detainees off transport vehicles and bounced them against the wall every time they could get away with it. Lieutenant 1 asserted the only time it would have been appropriate for an officer to press, bounce, or slam a detainee against the wall was if the detainee was aggressive, combative, or violent. However, Lieutenant 1 said he never saw a detainee act in these ways.

According to Lieutenant 1, he confronted another lieutenant who was responsible for escorting detainees (hereinafter "Lieutenant 2") after seeing Lieutenant 2 slamming detainees against the wall. Lieutenant 2 also supervised many of the officers who Lieutenant 1 witnessed slam detainees against the wall. Lieutenant 1 stated that Lieutenant 2 told him that slamming detainees against the wall was all part of being in jail and not to worry about it.

When interviewed by the OIG, Lieutenant 2 maintained that his officers did not slam detainees against the wall, but he stated that it was possible an officer could have slipped by mistake and slammed a detainee into the wall. He also stated that if the lieutenant supervising an escort was not paying "very, very close attention" and actively controlling the officers while trying to communicate with the detainee, then "anything could have happened."

Moreover, one current MDC officer implied, although did not state, in an affidavit that some staff members bounced detainees off the wall. He wrote, "There were some lieutenants like [Lieutenant 1] who would [rein] in an officer for bouncing a detainee against the wall, but there were probably other lieutenants who would let more slide."

A federal agent who served on the INS's Special Response Team that transported many detainees to the MDC said he witnessed MDC staff members

briskly walk compliant detainees into walls without slowing them down before impact. During two escorts we viewed on videotape, we observed officers escort detainees down a hall at a brisk pace and ram them into a wall without slowing down before impact, just as the INS agent described.

Further, an attorney for one detainee said he observed MDC staff members slam his client against the wall. The attorney said that after his visit with his client in February 2002, MDC officers escorted his client out of the visiting room and threw him up against the wall face first. The attorney stated that the officers then removed his client's shoes and banged them against the wall right by his face, clearly intending to intimidate him. According to the attorney, this incident was not recorded by a video camera.

In our review of the videotapes, we saw staff members slam one detainee into two walls while he was being escorted from a recreation cell to a segregation cell. In another incident, we saw staff members forcefully ram a second detainee into two walls while he was being escorted from the recreation deck to a segregation cell. On several videotapes leading up to and following these incidents, we did not observe any conduct that would justify staff members using this amount of force on either of these detainees. Instead, the videotapes show that both men were compliant before and during the escorts when staff members slammed and rammed them against walls.<sup>10</sup>

Many of the detainees also alleged that they were slammed against the wall in the sally port at the bottom of a ramp where a t-shirt was taped to the wall.<sup>11</sup> The t-shirt, which is discussed below in greater detail under "T-Shirt with Flag and Slogan," had a picture of the U.S. flag and the phrase "These colors don't run" on it.

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<sup>10</sup> These incidents are discussed below in detail under "Improper Application and Use of Restraints."

<sup>11</sup> Several officers and two INS agents stated that when the detainees were removed from their transport vehicles, they were pat searched against the wall, right where the t-shirt was located. One officer who worked in R&D said that when staff members pat searched detainees, they leaned the detainees into the wall and placed their faces on the t-shirt.



**Image 1: The t-shirt in the sally port.**

Two staff members, Lieutenant 1 and a staff member from R&D, told us they observed blood on the t-shirt. Lieutenant 1 stated some of the bloodstains looked like a couple of bloody noses smudged in a row, and other stains looked like someone with blood in his mouth spit on the t-shirt. None of the current or former staff members we interviewed said they knew how blood got on the t-shirt. Moreover, none of the INS agents who brought the detainees to the MDC recalled any of the detainees being bloody before they arrived at the sally port. While we cannot say definitively whether the blood was from the detainees, the fact that two staff members saw blood on the t-shirt where detainees were “placed” provides some evidence that detainees were slammed into the t-shirt, as many alleged.

In addition, our investigation revealed that at least one detainee likely received a bruise on his arm from being slammed into a wall.<sup>12</sup> In his interview, the detainee said his bruise was caused by officers who repeatedly slammed him against the wall in R&D. According to Lieutenant 2, who examined the detainee when he arrived at the MDC, the detainee did not have any bruises when he entered the MDC during the evening of October 3, 2001. However, when the detainee left for court the following day, he had a large bruise on the side of his right upper arm. A videotape of the detainee’s bruise showed that it was very dark, circular, and about the size of a tennis ball. Lieutenant 2 said that when he observed the bruise on the detainee’s arm the next day, he concluded that the bruise was caused in the MDC, but he did not know how.

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<sup>12</sup> Two other detainees also maintained they developed bruises after being slammed into the walls.

The detainee's bruise was examined by an MDC doctor on October 5, 2001, but the detainee's medical records do not indicate what caused his injury. On a videotape of his medical examination that we reviewed, the detainee told the doctor that his bruise "happened here," but the doctor did not ask how he got the bruise and instead said he only wanted to confirm which bruise he was supposed to examine.

The OIG obtained medical records for seven other detainees who alleged MDC staff members slammed them against walls. These records do not indicate that the detainees were bruised or otherwise injured from being slammed against the wall.<sup>13</sup> It is possible that the detainees were not injured. However, if they were injured, there are several explanations for why their injuries may not have been recorded in the detainees' medical records. First, some detainees did not seek medical treatment for their bruises because they would have been required to request treatment from the same officers who they alleged injured them. Second, detainees generally received their intake medical assessments shortly after they arrived, before bruises would have developed from being slammed against the wall in R&D. Third, MDC staff members who observed the bruises did not always offer detainees the opportunity to visit medical personnel, as one detainee alleged happened when he showed a lieutenant a bruise he obtained following a "use of force" incident on April 2, 2002. Fourth, some MDC medical personnel may have failed to examine detainees' injuries or discern how they were injured, as shown on the videotape of the medical examination of the detainee who had a bruised arm.

In our interviews of MDC staff members, most of them denied detainees ever were slammed or bounced against the wall. A few staff members did state that detainees were slammed against the wall, but only when they were noncompliant.<sup>14</sup> Almost all of the staff members we interviewed described the detainees, with the sole exception of Zacarias Moussaoui, as fully compliant and non-combative.

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<sup>13</sup> One detainee alleged his chin was injured by officers who slammed him into a wall, but we did not find sufficient evidence to substantiate this allegation. The detainee obtained a two millimeter long laceration on his chin the day he arrived at the MDC. He alleged that MDC staff members slammed him into the wall while escorting him into R&D. According to staff members who were involved in the escort or who witnessed the incident, the two staff members escorting the detainee tripped over the feet of another staff member who was holding the door open at the top of the sally port ramp. The detainee's medical records indicate that at the time of the examination, he stated that his injury occurred when he "tripped going up."

<sup>14</sup> One lieutenant stated that he observed several detainees not complying when they resisted getting out of transport vehicles, refused to walk up the sally port ramp, or were unresponsive to staff members' commands, such as to lift their arms up during pat searches. This characterization was contradicted by most other witnesses we interviewed.

But many of the staff members who told us the detainees never were slammed against the wall or who said that the detainees were slammed against the wall only when they were violent, also told us the detainees never were pressed against the wall, the detainees' heads never touched the wall, or there never was a t-shirt with an American flag on it hanging in the sally port. These claims were contradicted by numerous videotapes showing that staff members routinely pressed detainees into walls, regularly instructed detainees to place their heads against walls, and directed the detainees to face the t-shirt prominently displayed for months in the sally port.



**Image 2: Officers face detainee towards t-shirt with flag.**



**Image 3: Officers press detainees against walls.**



Furthermore, nearly all of the staff members we interviewed stated that the detainees were compliant, only a few of them were argumentative, and none of them were violent or hostile.<sup>15</sup> For example, a current lieutenant at the MDC said that when the detainees arrived they were scared and visibly afraid. He said it became apparent to him that the detainees were not terrorists.

In addition to alleging that they were slammed against walls, five detainees alleged MDC staff members used force on their heads or necks. For example, one detainee stated that when certain officers pressed him against the wall, they put a lot of pressure on the back of his head and pressed his forehead against the wall. He said whenever he moved his head away from the wall, the officers banged his head on the wall. Similarly, another detainee told us that on the day he arrived at the MDC, one officer grabbed the back of his head in the elevator, pushed his whole face against the elevator wall, and squeezed his head behind his ear as hard as he could. The detainee said, "It was very, very painful."

The two senior BOP officials we interviewed stated that pressing a compliant, non-combative inmate's head or neck against the wall is not an appropriate control technique. The official responsible for training BOP officers said it never was acceptable to touch or use force on an inmate's head or neck unless the inmate was violent and staff members were trying to defend themselves. As noted above, BOP policy prohibits staff members from using more force than necessary to control inmates, or causing them unnecessary physical pain or extreme discomfort. See BOP P.S. 3420.09 and BOP P.S. 5566.05.

Lieutenant 1 identified two officers who regularly pressed detainees' heads against the wall. He said one officer put detainees' faces against the wall and screamed at them, and the other officer frequently put his hand on the back of detainees' necks and put their heads on the wall.

When we interviewed the two officers Lieutenant 1 identified, however, both denied ever pressing detainees' heads into the wall or ever witnessing any officer touch a detainee's head or neck. One of the officers commented to us that, "there could be serious damage" if officers put detainees' heads on the wall.

Similarly, nearly all of the other current and former staff members we interviewed maintained they never saw or heard of staff members touching detainees' necks or heads, or pressing detainees' heads against walls. One

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<sup>15</sup> While the detainees were largely compliant, staff members occasionally had to enter a few detainees' cells and use force to prevent detainees from engaging in conduct that violated ADMAX SHU rules, including peeling paint off the walls, injuring themselves, hiding from cameras, or refusing to come to the cell door to be handcuffed.

former officer stated, “we don’t put hands on their heads,” and another former officer said officers specifically told the detainees not to place their heads against the walls.

However, several videotapes showed officers pressing detainees heads against the wall. One tape showed an officer controlling a detainee by his head and firmly pressing his head and neck against the wall until a lieutenant, noticing the video camera, slapped the officer’s hand away. On another videotape, we saw an officer grab a detainee by his hair and his neck, and firmly press his head against a wall. (Image 4) This particular incident was witnessed by one of the officers who told us that he never saw any staff member touch a detainee’s neck or head, or press a detainee’s head to the wall.



**Image 4: Officers firmly press detainee’s head against the wall.**

In sum, we concluded based on videotape evidence, detainees’ statements, and staff members who corroborated allegations of abuse, that several MDC staff members slammed and bounced detainees into the walls when they first arrived at the MDC and sometimes in the ADMAX SHU, without justification and contrary to BOP policy. We also concluded that some staff members, contrary to their denials, inappropriately used force on detainees’ necks and heads, and pressed their heads against walls.

## **2. Bending Detainees’ Arms, Hands, Wrists, and Fingers**

Ten detainees alleged that while their hands were cuffed behind their backs, MDC staff members inappropriately twisted or bent their arms, hands, wrists, or fingers during escorts on the ADMAX SHU or to and from R&D, causing them pain. The detainees said staff members bent their arms up into the middle of their backs, pulled their thumbs back, twisted their fingers and

wrists, and bent their wrists forward towards their arms (referred to by MDC staff members as “goosenecking”).

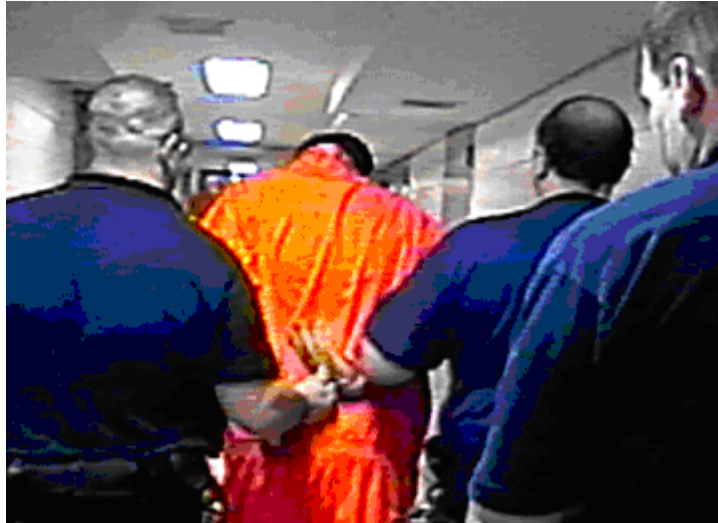
As noted above, BOP policy prohibits staff members from using more force than necessary to control an inmate. Similarly, BOP P.S. 5566.05, “Use of Force and Application of Restraints on Inmates,” authorizes staff members to use force on inmates only as a last alternative after all other reasonable efforts to resolve a situation have failed. In our interviews with two senior BOP officials, they indicated that twisting or bending hands, wrists, or fingers of compliant inmates is an inappropriate control technique. The BOP official who is responsible for training new BOP officers on restraint and escort techniques stated that staff members should not use pain compliance techniques, such as bending fingers or twisting wrists, unless the inmate is noncompliant or violent and confrontation avoidance through communication has failed. He stated that using pain compliance methods under any other circumstances would be using more force than necessary on an inmate and thus would violate BOP policy.

Two lieutenants and an officer told us that MDC staff members twisted and bent detainees’ hands, wrists, and fingers. Lieutenant 1 stated that one officer always twisted detainees’ hands during escorts, even when they were being compliant. He said that he had to correct this officer not to hold detainees’ fingers or hands “in a manner which causes unnecessary pain.” Lieutenant 2 told us he saw officers unnecessarily gooseneck detainees’ wrists and said he had to correct them. In addition, an R&D staff member told us he saw officers control detainees by bending their wrists down in “modified gooseneck holds.” He stated that these holds were “modified” because the officers were not bending detainees’ wrists in order to hurt them, unlike the gooseneck hold. However, he said that the modified gooseneck holds made the detainees uncomfortable and caused some detainees to complain that they were in pain.

Other current and former MDC staff members we interviewed told us different things with respect to whether they or other officers bent detainees’ thumbs and goosenecked their wrists. Some said officers never were supposed to hold or bend detainees’ thumbs, and they never saw or heard of staff members bending detainees’ thumbs or goosenecking their wrists. Others said it was appropriate to bend detainees’ thumbs, gooseneck their wrists, or use pain compliance methods if the detainees were being noncompliant or combative, although many of them said the detainees never were noncompliant or combative. One lieutenant told us that it was possible that officers intentionally twisted the injured hand of one detainee who argued with the officers, “just because it’s human nature.”

Moreover, contrary to some officers’ denials that staff members ever bent detainees’ hands, wrists, or fingers, in our review of videotapes we observed

several instances when MDC staff members bent compliant detainees' arms, hands, wrists, and fingers for no apparent reason. For example, we saw a staff member gratuitously gooseneck a detainee's wrist during a routine escort, even though the detainee was fully cooperative and compliant. (Image 5)



**Image 5: Officer uses thumb to gooseneck compliant detainee's wrist.**

Based on the consistency in the detainees' allegations, witnesses' observations, and videotape evidence, we believe some staff members inappropriately twisted and bent detainees' arms, hands, wrists, and fingers, and caused them unnecessary physical pain, in violation of BOP P.S. 5566.06.

### **3. Lifting Detainees, Pulling Arms, and Pulling Handcuffs**

Several detainees alleged that MDC staff members carried them, pulled their handcuffs or waist chains, dragged them, or lifted them off the ground by their restraints and arms. Some detainees also alleged staff members pulled their arms up while their hands were cuffed behind their back, which exerted great pressure on their handcuffs and hurt their wrists. Many of these allegations related to the detainees' first day at the MDC.

For example, one detainee stated staff members dragged him along the ground from R&D to his cell on the ADMAX SHU the day he arrived at the MDC. Similarly, a second detainee alleged MDC staff members pulled him by his arms from R&D to the ADMAX SHU. Furthermore, a third detainee told us that staff members linked their arms through his cuffed elbows to lift him off the ground every time they moved him for the first three days he was at the MDC, even though he was compliant. Another detainee said that staff members lifted him off the floor by his chains and ran with him, even though he was fully restrained and compliant.

According to the senior BOP official responsible for training BOP officers on restraint and escort procedures, it is unnecessary and inappropriate for staff members to lift compliant inmates' restrained arms up behind their backs, even to pat search their lower back area. He also stated that it is not appropriate for staff members to lift or carry inmates if they are compliant and willing to walk on their own. He said using these techniques on compliant inmates violates the BOP's policies because it can cause the inmates unnecessary pain. As noted above, BOP policy prohibits staff members from using physical violence, causing inmates unnecessary physical pain or extreme discomfort, or using any force beyond that which is reasonably necessary to subdue an inmate. See BOP P.S. 3420.09 and 5566.05.

Several MDC staff members and a detainee's attorney told us they witnessed staff members carry detainees, lift detainees, pull detainees' restraint chains, or pull detainees' arms. For example, Lieutenant 1 stated he had to correct an officer for making detainees walk on their toes by lifting their arms or restraints in a painful way. Another MDC lieutenant said there were times officers pulled on detainees' handcuffs too much, and he had to slap the officers' hands away. In addition, one detainee's attorney told us that even though his client was in leg restraints, the officers hurried him down the hall so quickly that they nearly were picking him up off the ground when they brought his client to meet with him.

Most current or former MDC staff members we interviewed told us they did not see, hear, or ever recall staff members carrying detainees, lifting detainees, pulling detainees' restraint chains, or pulling detainees' arms to hurt their wrists.

On videotapes of the detainees, however, we observed MDC staff members carry compliant detainees, pull detainees' arms in a way that painfully strained their handcuffed wrists, and forcefully hurry detainees during escorts. For example, we saw staff members in separate incidents quickly move two detainees by carrying them horizontally to the floor, even though there was no indication the detainees refused to walk. We also saw several officers raise compliant detainees' handcuffed arms up behind their backs in a way that bent the detainees' elbows and appeared to hurt the detainees' arms and wrists. (Image 6)



**Image 6: Officers raise compliant detainee's arms up behind his back.**

The senior BOP official responsible for training new officers reviewed some of these instances on the videotapes and stated that the officers' use of these techniques was inappropriate.

We determined from the videotapes and witnesses' statements that some staff members inappropriately carried or lifted detainees, and raised or pulled their arms in painful ways. However, we did not substantiate detainees' allegations that staff members dragged them on the ground, lifted them solely by their chains, or refused to let their feet touch the ground for days.

#### **4. Stepping on Detainees' Chains**

Several detainees alleged that MDC staff members purposely stepped on their leg restraint chains while they were stationary and also while they were walking, injuring their ankles and causing them to fall. According to one detainee, after staff members stepped on his leg restraint chain and caused him to fall, they dragged him by his handcuffs and clothes, stood him up, stepped on his chain again, and repeated the process.

The senior BOP official who trains new BOP officers stated that staff members are never taught to step on inmates' leg restraint chains, even if the inmate is non-compliant, because there is no correctional purpose served in doing so. In his opinion, the only reason officers would step on an inmate's leg restraint chain would be to inflict pain. Again, BOP policy specifically prohibits staff members from using more force than necessary to control inmates, inflicting unnecessary physical pain on inmates, or causing inmates extreme discomfort.

Lieutenant 2 acknowledged that he observed officers step on detainees' leg restraint chains when they were placed against the wall, although he said he did not like it. He explained that because the detainees' legs were spread apart and the leg restraint chain was taut, the leg restraints could have bruised the detainees' ankles when officers stepped on the chain. Lieutenant 2 said he tried to correct officers when he saw them step on detainees' leg restraint chains.

An R&D staff member also said he saw officers step on detainees' leg restraint chains during pat searches in R&D. According to this staff member, officers stepped on the detainees' leg restraint chains when the detainees first started arriving at the MDC, although they stopped stepping on their leg restraint chains as time passed.

Similarly, an INS agent witnessed MDC staff members step on two detainees' leg restraint chains while firmly holding them against the wall. The agent said the more pressure the officers put on the leg restraint chains, the more the detainees squirmed and complained; and the more the detainees squirmed and complained, the "worse it got" for them.

One MDC correctional officer who assisted with approximately 7 to 10 detainee escorts from R&D to the ADMAX SHU said he observed staff members stepping on detainees' leg restraint chains. The officer incorrectly thought that security procedures required officers to step on detainees' leg restraint chains whenever they were stopped or whenever officers needed to remove their leg restraints. The officer said staff members stepped on detainees' leg restraint chains when they came out of their cells before going to recreation, when officers had to apply or remove leg restraints, or when officers escorting a detainee had to wait for elevators or doors. He stated, however, that he thought the officers only stepped on excess chain that was on the ground and not on chain that was stretched tight between the detainees' legs.

Our investigation found evidence that some detainees had substantial bruises and scabs around their ankles caused by the leg restraints. For example, we reviewed a videotape that showed that by one detainee's second day at the MDC, his ankles were badly bruised.<sup>16</sup>

Similarly, another detainee's attorney said that he observed significant black and blue bruises on his client's ankles and that his client told him they were caused by staff members who stepped on his leg restraint chains. Based

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<sup>16</sup> An MDC doctor who examined the detainee suggested in the videotapes that his bruises were caused by irritation from the leg restraints and said that he recommended the detainee wear his leg restraints over his socks to prevent further bruising. However, a videotape of the detainee's medical examination showed the detainee already had been wearing the leg restraints over his socks.

on the statements of MDC staff members, we believe these injuries were the result of staff members stepping on detainees' leg restraint chains, although tight leg restraints that restricted blood flow also may have contributed to bruising around detainees' ankles.<sup>17</sup>

In our interviews, numerous current or former MDC staff members who handled the detainees asserted they never saw or heard of staff members stepping on detainees' leg restraint chains. Several of them, including a senior MDC management official, said it never would be appropriate for staff members to restrain detainees by stepping on their leg restraint chains, unless there was an emergency, because it would have hurt the detainees' legs or caused them to trip.

However, these denials were belied by the statements of other officers, which we described above. Moreover, despite the senior MDC management official's statement that it never was appropriate to step on a detainee's leg restraint chain, we saw a videotape in which he and another staff member appeared to restrain a detainee by stepping on his leg restraint chain during a non-emergency medical examination.<sup>18</sup>

Based on the consistency in the detainees' allegations, eyewitness statements by several staff members, videotape evidence of detainees' ankle injuries, and videotape evidence of the senior MDC management official and another staff member stepping on a detainee's leg restraint chain, we believe some staff members violated BOP policy by stepping on detainees' leg restraint chains. However, the evidence is inconclusive regarding whether MDC staff members stepped on detainees' leg restraint chains while they were walking or repeatedly tripped them and dragged them on the floor, as one detainee alleged.

## **5. Improper Application and Use of Restraints**

As described in the June 2003 Detainee Report, the BOP treated all September 11 detainees as "high security" inmates, which meant that they were placed in the ADMAX SHU and subjected to the strictest form of confinement whenever they were taken out of their cells. For example, the

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<sup>17</sup> We discuss this further under "Improper Application and Use of Restraints" in section 5 below.

<sup>18</sup> In this incident, it appeared that stepping on the detainee's leg restraint chain did not pull on the detainee's ankles and may have been intended to ensure that the detainee would not hurt himself or others by bucking his legs. Yet, after reviewing the videotape with us, the senior MDC management official continued to maintain that he did not step on the chain. The other employee on the videotape acknowledged that he believed he and the senior MDC management official stepped on the detainee's leg restraint chain.



detainees were restrained with what the BOP calls “hard restraints:” steel handcuffs, leg restraints, and sometimes waist chains.

Nine detainees alleged that staff members applied handcuffs or leg restraints too tightly, punished the detainees by squeezing their handcuffs tighter, did not loosen restraints after the detainees complained that they were very painful, or left detainees restrained in their cells for long periods of time. For example, one detainee filed a formal complaint against one officer for squeezing his handcuffs tightly during an escort and causing his wrists to bruise. Similarly, another detainee told us that some of the MDC staff members intentionally hurt the detainees by tightening their restraints. This detainee said that if the detainees were “mouthy” or cursed, staff members punished them by applying their restraints tightly. He also said that if a detainee complained that his restraints hurt, the staff members tightened his restraints even more.

While the proper application of restraints may result in some discomfort, the BOP prohibits staff members from using restraints to punish inmates, cause unnecessary physical pain or extreme discomfort with overly tight restraints, or restrict blood circulation in any manner. See BOP P.S. 5566.05 and 3420.09. When staff members apply restraints to inmates in “use of force” incidents, for example, the BOP prohibits staff members from continuing to restrain the inmates after they have gained control of them. See BOP P.S. 5566.05. In addition, the BOP prohibits staff members from applying restraints to an inmate in an administrative detention cell, such as an ADMAX SHU cell, without approval of the Warden or his designee. See BOP P.S. 5566.05.

The senior BOP official who trains new BOP officers stated that all BOP officers are taught how to apply restraints in a way that does not cause pain or restrict blood circulation. However, we observed a few instances on videotapes when medical personnel examining a detainee determined a detainee’s restraints were applied too tightly and needed to be loosened. While these videotapes show that staff members applied some detainees’ restraints too tightly, we did not substantiate particular detainees’ allegations that staff members injured them by tightening their restraints or punished them by applying their restraints too tightly.

However, our investigation developed evidence that staff members punished at least two detainees by leaving them restrained in segregated cells for at least seven hours. According to the senior BOP official responsible for training new officers, inmates can be left in restraints in their cells only so long as they are combative. He stated a lieutenant has to check on the restrained inmates every two hours to determine if they are still physically combative. See BOP P.S. 5566.05. As soon as a lieutenant determines the inmate has regained physical control and is no longer a threat to himself, other inmates, or

property, his restraints must be removed. The official said staff members violate BOP policy if they keep inmates restrained longer than necessary, or if they restrain inmates to punish or discipline them. He further stated that if inmates are being disruptive or noncompliant by yelling, it is entirely ineffective to place them in restraints because handcuffing them will not stop them from yelling. He said the only appropriate action would be to move them to another cell where their yelling cannot be disruptive.

On November 8, 2001, two detainees began yelling in their cells and banging on their cell doors in response to screams from a third detainee who was in the medical room having a blood sample taken.<sup>19</sup> On videotapes, we heard a couple of detainees yelling, “What are you doing to [the third detainee]?” immediately after the third detainee began screaming. We also observed that as soon as these detainees began yelling and banging on their cell doors, a senior MDC management official abruptly turned and walked out of the medical exam room with his deputy following after him. Of the ten staff members in the medical exam room at the time, only the senior MDC management official and his deputy responded immediately to the detainees. Shortly after the senior MDC management official left the medical examination room, we heard a staff member, who sounded like the senior MDC management official, say things to the detainees like, “What do you want?” and “Are you done?”

Subsequently, according to staff members’ memoranda and official reports, staff members activated an emergency alarm to request assistance on the ADMAX SHU and performed an “emergency use of force” on the two detainees who had yelled and banged on their cell doors. These memoranda and reports allege that the two detainees were staging a group demonstration and encouraging other detainees to riot and engage in a hunger strike. As part of the “emergency use of force,” the two detainees were taken to recreation cells, left there for about half an hour, and then transferred to segregation cells.

In the videotapes of the two detainees initially being escorted from their cells to the recreation deck, we observed that they fully complied with the staff members and that the staff members were not aggressive with them. We saw no “use of force” employed or needed during these escorts from their cells.<sup>20</sup>

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<sup>19</sup> The detainee alleged he was screaming in part because one of the officers had bent his thumb back severely while his blood was being taken. While we could not determine by viewing a videotape of the incident whether this officer had bent the detainee’s thumb back, on the videotape it appeared that the officer held the detainee’s thumb during part of the medical examination.

<sup>20</sup> According to MDC policy, all “use of force” incidents must be videotaped and the tapes given to the Special Investigative Section (SIS) as evidence to be stored in the SIS evidence safe (continued)

While the two detainees were on the recreation deck, we heard staff members discuss the incident off-camera. The staff members never indicated the two detainees were inciting a riot or staging a group demonstration. Instead, one staff member stated to the others that the ADMAX SHU could not house the detainees adequately because there were too many detainees for the staff to handle. Another staff member responded, “Well, things are quiet now. They are not yelling or nothing.” Finally a third staff member, who sounded like the senior MDC management official, replied, “Right. We gotta follow up. We’ve got to leave them in restraints and make them behave – that this is not appropriate.”

Shortly after this discussion, we saw on videotapes staff members escorting the two detainees from the recreation deck to segregation cells. These escorts were much more aggressive than the previous escorts to the recreation deck. We saw the officers rush the detainees down the corridors, slam one detainee into walls, ram the second detainee into walls, and hold both of them by their heads or necks. Two lieutenants present during these escorts submitted memoranda alleging that the two detainees were “placed against the wall” because they were uncooperative or resisting staff members. On videotapes of the escorts, however, the two detainees did not appear to be uncooperative or resisting staff members.

The two detainees were then left in hard restraints for more than seven hours in segregation cells.<sup>21</sup> Although staff members submitted memoranda or reports indicating that the officers had handled the two detainees in accordance with BOP policy, the evidence we reviewed indicates that staff members violated BOP policy by using more force than necessary to gain control of the detainees – who appeared compliant – and by leaving them restrained in their cells for an inappropriately long period of time.

Based on our review of the videotapes that were recorded at different locations on the ADMAX SHU, it did not appear that the two detainees were staging a group demonstration, inciting a riot, or doing anything but yelling and banging on their cell doors in response to the screams of the third detainee who was in the medical exam room. While detainees are not permitted to yell, bang on doors, or curse at staff under ADMAX SHU rules, we do not believe the two detainees’ behavior in this instance amounted to inciting a riot or required them to be locked in hard restraints in segregation cells for seven hours. Rather, the evidence suggests that in this incident, staff members used rough treatment and restraints to punish the two detainees, in violation of BOP policy.

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for two-and-a-half years. However, there were no tapes of these detainees for this date in the SIS safe, according to MDC officials.

<sup>21</sup> An official report from the MDC states they were restrained from 2:00 p.m. to 9:10 p.m.

## **6. Rough or Inappropriate Handling of Detainees**

Several detainees alleged MDC staff members handled them roughly or inappropriately, asserting that they were punched, kicked, beaten, or otherwise physically abused.

According to the BOP official who trains new BOP officers, officers are not to handle inmates roughly, aggressively, or in any manner that causes them unnecessary pain. He reiterated that using any more force than necessary in handling inmates violates BOP policy.

Several MDC staff members confirmed detainees' allegations that officers used unnecessary force and handled detainees roughly. A current MDC lieutenant who was assigned briefly to the ADMAX SHU stated that a lot of detainees were treated "pretty roughly" when they were brought into the sally port and R&D. Another lieutenant said, "We were not using kid gloves with these guys."

In addition, two former MDC lieutenants and a current lieutenant stated that some officers took their anger and frustration about the September 11 terrorist attacks out on the detainees. They stated they had to tell the officers to "ease up" when handling the detainees, and they had to remove some officers from escort teams because they were too rough with the detainees or were not able to handle them professionally. One of the lieutenants said that some officers "tried to prove that they were men or prove that America was superior" by being unprofessional or overly aggressive with the detainees.

An R&D staff member said he and other R&D staff members had to take officers off escort teams because they were "rambunctious" and "excited." In addition, the R&D staff member told us officers were unnecessarily rough while pat searching the detainees the first few days they arrived. He commented, "You feel bad if you're roughing up someone who is crying." This staff member also stated that he witnessed officers take off detainees' shoes during pat searches in R&D and knock them against the wall right next to the detainees' faces.

Despite these staff members' statements, many other current and former MDC staff members we interviewed claimed that officers never were aggressive with or used unnecessary force on the detainees. Many also denied that detainees were ever pressed or held to the wall. One lieutenant maintained that the detainees were "treated with kid gloves."

On the videotapes, however, we observed that staff members often handled detainees roughly or inappropriately. For example, we observed that staff members regularly pressed and held detainees to the wall. In addition, we saw one officer sharply slap a detainee on the shoulder and grab another

detainee's shoulder and push him. We also saw another officer firmly poke a detainee in the shoulder without any provocation.

One detainee alleged that in late October 2001 staff members punished him twice for talking too much by stripping him, giving him only a sleeveless t-shirt, and locking him in a cell for 24 hours without food or blankets. A second detainee stated he saw officers put the first detainee in cell number 1 with no clothes or blankets, and throw water on the cell floor. The second detainee said that cell number 1 was the punishment cell and the officers kept the first detainee in there all the time. A third detainee also told us that staff members used cell number 1 to punish detainees.

The first detainee identified three staff members who allegedly punished him by locking him in a cell in a sleeveless t-shirt without food or blankets. When interviewed by the OIG, one of the staff members denied generally that any detainees were mistreated. The other two staff members said the detainee never was placed in a cell without food, although he had been placed on suicide watch once or twice and was stripped, given a suicide watch gown, and put in a different cell so he could be monitored.

However, the detainee's medical records do not indicate that he ever was suicidal or needed to be placed on suicide watch. His file also does not contain any suicide risk assessments or suicide watch records. If the detainee was suicidal, his suicide risk assessment or suicide watch should have been documented, as was done for more than ten other detainees.

We did not receive any videotapes that showed the detainee being placed on or monitored during a suicide watch, even though we received videotapes of other detainees who were placed on suicide watch. However, we observed on videotape an incident in which four staff members, including the two who maintained the detainee had been suicidal, cornered the detainee in a recreation cell while a lieutenant threatened him to stop inciting and talking to other detainees. The lieutenant told him that if he did not do what the staff members said, they would send him to a penitentiary where he would have even less privacy and freedom than at the MDC. The lieutenant said, "You think we can't break you? [The penitentiary] will." This incident indicates that staff members were irritated with the detainee and lends credibility to the detainee's allegation that some of the same staff members later punished him by locking him in a segregated cell because he talked too much.

While the evidence is not conclusive, it suggests that the detainee was not suicidal and staff members inappropriately and unnecessarily stripped him down to a sleeveless t-shirt and locked him in a segregation cell for 24 hours as a form of punishment.

In addition, videotape evidence and witnesses' statements indicate that some staff members often handled detainees roughly or inappropriately. However, we did not find evidence that staff members punched, kicked, or beat detainees, as some detainees alleged.

## **7. Conclusion**

In sum, we concluded, based on videotape evidence, detainees' statements, witnesses' observations, and staff members who corroborated some allegations of abuse, that some MDC staff members slammed and bounced detainees into the walls at the MDC and inappropriately pressed detainees' heads against walls. We also found that some officers inappropriately twisted and bent detainees' arms, hands, wrists, and fingers, and caused them unnecessary physical pain; inappropriately carried or lifted detainees; and raised or pulled detainees' arms in painful ways. In addition, we believe some officers improperly used handcuffs, occasionally stepped on compliant detainees' leg restraint chains, and were needlessly forceful and rough with the detainees – all conduct that violates BOP policy. See BOP P.S. 5566.06.

### **B. Verbal Abuse**

Twenty-two detainees alleged that staff members verbally abused them by calling them names, cursing at them, threatening them, or making vulgar or otherwise inappropriate comments during strip searches. For example, detainees alleged staff members called them names like “terrorists,” “mother fuckers,” “fucking Muslims,” and “bin Laden Junior.” They also said staff members threatened them by saying things like:

“Whatever you did at the World Trade Center, we will do to you.”

“You’re never going to be able to see your family again.”

“If you don’t obey the rules, I’m going to make your life hell.”

“You’re never going to leave here.”

“You’re going to die here just like the people in the World Trade Center died.”

Several of the detainees said that when they arrived at the MDC, they were yelled at and told things like:

“Someone thinks you have something to do with the terrorist attacks, so don’t expect to be treated well.”

“Don’t ask any questions, otherwise you will be dead.”

“Put your nose against the wall or we will break your neck.”

“If you question us, we will break your neck.”

“I’m going to break your face if you breathe or move at all.”

One detainee stated that when the detainees prayed in the ADMAX SHU, officers said things like, “Shut the fuck up! Don’t pray. Fucking Muslim. You’re praying bullshit.” Another detainee alleged that when the officers were mistreating the detainees, the officers sometimes said, “Welcome to America.”

The BOP P.S. 3420.09, “Standards of Employee Conduct,” specifically prohibits verbal abuse of inmates, stating, “An employee may not use . . . intimidation toward inmates,” and “[a]n employee may not use profane, obscene, or otherwise abusive language when communicating with inmates. [Employees] shall conduct themselves in a manner which will not be demeaning to inmates.”

Nearly all of the staff members we interviewed denied ever verbally abusing the detainees or witnessing any other staff member verbally abuse detainees. Several of them denied ever hearing another staff member even utter a curse word around the detainees. One officer told us that all the staff members were “very polite” with the detainees and that they would ask the detainees, “Can you please do this?” and “Can you please do that?” instead of ordering them around.

However, in our interviews with several current and former staff members, we found evidence that corroborated some of the detainees’ allegations of verbal abuse and refuted the officers’ denials. For example, one current lieutenant told us that when some detainees requested more food, he heard some officers respond, “You’re not getting shit because you killed all those people.”

Another current lieutenant told us about one officer who referred to the detainees as “fuckers.” In addition, a staff member from R&D stated that officers cursed around the detainees, and told each other jokes and made derogatory statements about the detainees during strip searches.<sup>22</sup>

One officer acknowledged to us that officers sometimes let their personal feelings get in the way of their professional responsibilities and said things they should not have said. Moreover, a former officer, who maintained that he and fellow officers never verbally abused the detainees, frequently called the detainees “terrorists,” “dirtbags,” and “scumbags” during one of our interviews of him.

In addition to these current and former staff members, witnesses from outside the MDC also provided some corroboration for the detainees’ allegations of verbal abuse. One detainee’s attorney said he heard MDC

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<sup>22</sup> Strip searches are discussed further below under section III (C), “Strip Searches of Detainees.”

officers constantly refer to the detainee as “the terrorist,” “the 9/11 guy,” or “the bomber.” Similarly, an INS agent told us the detainees were read “the riot act” when they first were brought into the MDC.

We also found evidence on videotapes that suggested officers made inappropriate statements regarding the detainees. For instance, contrary to what many staff members told us, we heard on videotapes staff members curse repeatedly around the detainees. We also saw staff members behave unprofessionally during some strip searches, as the R&D staff member described; on videotapes, staff members laughed, exchanged suggestive looks, and made funny noises before and during strip searches.

We also observed one officer, who was assisting in a routine escort of a detainee, suddenly shout to another staff member in a threatening way, “This guy over here (gesturing to the detainee) thinks by getting nasty with a female officer and disobeying orders, he’s going to get shit (legal calls) from you.” At this point, the video camera operator admonished the officer to watch what he said on camera. At the end of the escort, the officer leaned over to the detainee and quietly said something that could not be heard on camera.

Similarly, as discussed above, we observed four staff members corner one detainee in a recreation cell. A lieutenant told him that if he did not do what the staff members said, they would send him to a penitentiary where officers would “break” him. This incident is very similar to threats that another detainee alleged a lieutenant made to him. The other detainee told us that a lieutenant against whom he filed a complaint came to his cell and threatened him by saying, “If you guys make too much noise, you’re going to the [penitentiary]. And those guys are killers. You won’t survive an hour there.”

From the statements of several staff members and witnesses outside the MDC and from the videotapes that we reviewed, we concluded that some staff members violated BOP policy by verbally abusing some detainees.

### **III. SYSTEMIC ISSUES RELATING TO THE MDC**

#### **A. Issues Addressed in the Detainee Report**

The June 2003 Detainee Report described various issues related to the treatment of detainees at the MDC, including problems with detainees receiving timely access to counsel, detainees being held under extremely harsh conditions of confinement such as cells being lighted 24 hours a day, detainees being held in lockdown for at least 23 hours a day, detainees being placed in full restraints every time they were moved, and detainees not receiving



adequate recreational opportunities.<sup>23</sup> Because those issues were discussed in detail in the Detainee Report, we do not repeat them in this report.

In the course of this investigation, however, we found other systemic problems and further information on several issues previously discussed in the Detainee Report regarding the treatment of MDC inmates, which we describe below. These include staff members using a t-shirt taped to the wall in R&D to send detainees an inappropriate message, audio taping detainees' meetings with their attorneys, unnecessarily and inappropriately strip searching detainees, and banging on detainees' cell doors excessively while they were sleeping. In addition, we describe the difficulties we had in obtaining videotapes from the MDC, despite our repeated requests, and our general assessment of the cooperation and credibility of many officers we interviewed.

## **B. Video and Audio Taping Detainees' Meetings with Their Attorneys**

We found that MDC staff members not only videotaped the detainees' movements when taken from their cells to visit with their attorneys, they also recorded detainees' visits with their attorneys using video cameras set up on tripods outside the attorney visiting rooms. In total, we found more than 40 examples of staff videotaping detainees' attorney visits.<sup>24</sup> On many videotapes, we were able to hear significant portions of what the detainees were telling their attorneys and sometimes what the attorneys were saying as well.

It appeared that detainees' attorney visits were recorded intentionally. On one occasion, an officer instructed the detainee not to speak in Arabic with his attorney because the meeting was being videotaped. In another videotape, a lieutenant told the detainee and his attorney that he had been instructed that they were required to speak in English during the visit. We also observed on several occasions that officers lingered outside the attorney visiting rooms and appeared to be listening to the conversations.

Audio taping inmates' meetings with attorneys is prohibited by federal regulation. Chapter 28 C.F.R. § 543.13(e) provides that "Staff may not subject visits between an attorney and an inmate to auditory supervision." On

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<sup>23</sup> Many detainees said they declined to go to the limited recreation because it often was offered only in the early morning when it was cold, and they had only short-sleeve jumpers and no shoes. Some detainees also complained that they were routinely strip searched after recreation, even though they were frisked before and videotaped during their recreation. In reviewing the videotapes, we found that many times the detainees were in the recreation cells before 7:00 a.m. and they appeared to be uncomfortably cold. We also saw videotapes of detainees being kept in restraints during their recreation period.

<sup>24</sup> Nearly every time we saw a detainee escorted to an attorney visit, his visit was videotaped. While we could hear audio on each of these videotapes, sometimes it was difficult to understand the detainees.

October 31, 2001, the Attorney General signed a directive that permitted monitoring of attorney-inmate meetings only under limited circumstances when the Attorney General approved the monitoring of the conversations and notice was given to the inmate and the inmate's lawyer. 28 C.F.R. § 501.3(d). According to BOP's Office of General Counsel, this authority was not used at the MDC. In a December 18, 2001, memorandum to wardens in the Northeast Region (which includes the MDC), M.E. Ray, the Regional Director, provided specific guidance on videotaping attorney visits for the detainees: "Visits from attorneys may also be visually recorded, but not voice recorded." No BOP or MDC memorandum specifically authorized taping attorney visits for the September 11 detainees or identified reasons to depart from standard BOP policy or the federal regulation.

When interviewed prior to the OIG obtaining all of the videotapes, MDC Warden Michael Zenk told the OIG that, initially, attorney visits were video and audio taped, but in November 2001, after one of the attorneys complained, the video camera was moved far enough away that the audio of the visits was not recorded.<sup>25</sup> However, as late as February 2002, conversations between detainees and their attorneys are still audible on many of the tapes. When confronted with this information, Warden Zenk stated that the visits should not have been audio taped. He also said his staff thought moving the camera away from the attorney visiting rooms ensured that the visits would not be audio taped.

Recording the detainees' attorney visits also was not necessary for the MDC's security purposes. The attorney visits took place in non-contact rooms separated by thick glass, and the MDC required the detainees to be restrained in handcuffs, leg restraints, and waist chains during the visits.<sup>26</sup> The detainees also were pat searched or strip searched after these meetings.

Taping detainees' attorney visits potentially stifled detainees' open and free communications with legal counsel and discouraged them from making allegations against specific staff members. Nevertheless, in some of the taped conversations, we heard the detainees tell their attorneys detailed allegations about the poor and abusive treatment they had received at the MDC. They described being slammed against the wall, physically abused, verbally abused, and intentionally kept awake at night. Their statements were consistent with what the detainees related to the OIG when they were interviewed months later.

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<sup>25</sup> Warden Zenk arrived at the MDC in late April of 2002 and provided this information based upon briefings by his staff members.

<sup>26</sup> See the October 18, 2001, official memorandum from a senior MDC management official to all MDC lieutenants.

In sum, we concluded that audio taping attorney visits violated the law and interfered with the detainees' effective access to legal counsel.

### **C. Strip Searches of Detainees**

Upon arriving at the MDC, consistent with MDC and BOP policy, detainees were strip searched in R&D and provided prison clothing. Also in accordance with MDC policy, the detainees were strip searched in R&D when they returned from court appearances or anytime they left the MDC. Very few of the detainees complained about the strip searches that occurred in R&D. However, many complained about strip searches that occurred in the ADMAX SHU.

Detainees complained that they were strip searched on the ADMAX SHU for no apparent reason, either minutes after they had been thoroughly searched in R&D and immediately escorted by officers to the ADMAX SHU, or when they had not even left the ADMAX SHU. Several detainees also stated that the staff members performing or observing the strip searches laughed at the detainees during the searches. Detainees complained that the strip searches on the ADMAX SHU often were filmed and that sometimes women were present or in the immediate vicinity during the searches. A few detainees maintained that MDC staff members used strip searches as a form of punishment.

In R&D, the strip searches were conducted in a room that contained detainees' prison clothing. The room had small dividers along the wall that blocked viewing from either side. When regular videotaping of the detainees started in October 2001, the video camera operators turned off the video cameras or filmed detainees only above the waist in R&D.

In contrast, on the ADMAX SHU the strip searches were conducted in either the multipurpose medical examination room, which is completely visible to anyone in the main ADMAX SHU corridor and the recreation cells, or in one of the empty cells on the range. Furthermore, many of the strip searches conducted on the ADMAX SHU were filmed in their entirety and frequently showed the detainees naked. Staff members consistently stated in interviews that filming a strip search in its entirety was against BOP policy.<sup>27</sup> While on some occasions the filming of the strip search was partially blocked by an officer observing the strip search, this did not appear to be an intentional strategy to give detainees more privacy. In a few videotapes, we heard the officers laughing while observing the strip searches.

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<sup>27</sup> BOP officials informed us that there is no national policy specifically prohibiting videotaping inmate strip searches. BOP P.S. 5521.05 provides that the strip search "shall be made in a manner designed to assure as much privacy to the inmate as practicable." However, the very act of filming the entire search seems to run counter to this policy.

It does not appear that the MDC issued written policies regarding when detainees were to be strip searched. According to the detainees and MDC staff, the strip searches on the ADMAX SHU were conducted on the following occasions: (a) always when detainees entered the unit; (b) sometimes when they departed from the unit; (c) often after attorney and social visits on the unit; (d) infrequently after recreation sessions on the unit; and (e) infrequently before medical examinations on the unit.

Staff members informed us that when the detainees arrived on the ADMAX SHU, the detainees had to be strip searched even if they had just been strip searched moments before in R&D.<sup>28</sup> Sometimes the same officers who were present for a detainee's strip search in R&D were present for the detainee's strip search on the ADMAX SHU. Several of the videotapes showed detainees' confusion as they futilely tried to explain that they had just been strip searched in R&D.

On the ADMAX SHU, whenever the detainees were outside their cells, they were handcuffed at all times and almost always were placed in leg restraints. As noted above, attorney and social visits were held in no-contact rooms separated by thick glass, detainees were restrained, and the visits were filmed. Nevertheless, detainees often were strip searched after their attorney and social visits. In interviews with the OIG, several officers stated it was standard MDC policy to strip search detainees following attorney or family visits, but they could not point us to any written policy. Yet, even if such searches were consistent with policy, they were applied inconsistently to the detainees and appeared to be unnecessary. Indeed, some staff members told us that the reason attorney and family visiting rooms were on the same floor as the ADMAX SHU was to avoid having to strip search the detainees.

Several detainees alleged that sometimes women were present during strip searches on the ADMAX SHU, which one detainee told the OIG he viewed as an affront to his religious beliefs.<sup>29</sup> During several of the videotaped strip searches, female voices can be heard in the background. In addition, one videotape shows a female staff member walking in the vicinity of a detainee undergoing a strip search.

Some detainees complained that the strip searches were used by the MDC staff as punishment. For example, in one videotape four officers escorted

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<sup>28</sup> However, we found that detainees who were taken off the ADMAX SHU to other locations in the institution, like the health unit or meeting rooms, were not always strip searched when they returned to the ADMAX SHU.

<sup>29</sup> BOP policy does not address whether staff members of the opposite gender may be present during strip searches, but BOP P.S. 5521.05 requires that staff of the same gender conduct the strip search unless there are exigent circumstances that are documented.

one detainee into a recreation cell and ordered him to strip while they berated him for talking too much with other detainees and for encouraging them to go on a hunger strike. We could see no correctional purpose or justification for strip searching this detainee, who had just been taken from his cell, pat searched, and then escorted into the recreation cell by the four officers.

In sum, we concluded that it was inappropriate for staff members in the ADMAX SHU to routinely film strip searches showing the detainees naked, and that on occasion staff members inappropriately used strip searches to intimidate and punish detainees. We also questioned the need for the number of strip searches, such as after attorney and social visits in non-contact rooms where the detainees were fully restrained and videotaped.

#### **D. Banging on Cell Doors**

Many detainees alleged that officers loudly banged on their cell doors in an attempt to wake them up, interrupt their prayers, or generally harass them.<sup>30</sup> Under MDC and BOP policy, counts were conducted throughout the day and night, including midnight, 3:00 a.m., and 5:00 a.m.<sup>31</sup> During these counts, officers were required to see detainees' "human flesh." See BOP P.S. 5500.09. As a result, officers were permitted to wake detainees up at these times if they could not see their skin.<sup>32</sup> According to the officers, during the counts the detainees usually waved their hands from under their blankets, which generally were pulled over their heads to block out the cell lights that were illuminated at all times until at least February 2002.

While several detainees acknowledged to us they understood that the officers were required to conduct periodic counts, these detainees alleged that several officers went beyond what was required for the count by kicking the door hard with their boots, knocking on the door at night much more frequently than required, and making negative comments when knocking on the door.

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<sup>30</sup> Due to the physical characteristics of the metal cell doors and the acoustics on the range, the sound from a light knock on a cell door would reverberate loudly inside and outside the cell. Officers complained to us and to each other on videotapes regarding the loud sounds that came from the detainees banging on the cell doors.

<sup>31</sup> Counts on the ADMAX SHU were actually double counts. One officer went through the entire range and conducted a count, and then immediately afterwards a second officer conducted an independent second count. At the end, the officers confirmed that they counted the same number of detainees.

<sup>32</sup> BOP P.S. 5500.09 directs staff members to use a flashlight judiciously during nighttime counts, but to use enough light that there is no doubt the staff member is seeing "human flesh." On the ADMAX SHU, however, for months the cells continually were lit by two lights.

For example, one detainee claimed that officers kicked the doors non-stop in order to keep the detainees from sleeping. He stated that for the first two or three weeks he was at the MDC, one of the officers walked by about every 15 minutes throughout the night, kicked the doors to wake up the detainees, and yelled things such as, "Motherfuckers," "Assholes," and "Welcome to America." Similarly, another detainee stated that when officers kicked the doors to wake the detainees up, they said things like, "Motherfuckers sleeping? Get up!" A third detainee also claimed that a few officers made loud noises at night to keep the detainees awake and that these officers appeared to have fun conducting the counts by knocking on the cell doors. Another detainee said that officers would not let the detainees sleep during the day or night from the time he arrived at the MDC in the beginning of October through mid-November 2001.

One detainee's attorney told us that his client stated that every time he fell asleep the officers came and kicked the doors to wake him up. The attorney told us that the detainee said this was not part of the officers' prescribed counts, but that the officers would watch the in-cell cameras and come kick on the doors as soon as they thought the detainee was asleep.

The officers we interviewed denied that they gratuitously or loudly knocked, kicked, or banged on the detainees' doors. One of the officers stated that for the counts, including the ones in the middle of the night, he knocked on the detainees' cell doors and might have used his foot, but he did not kick the doors very hard. This same officer stated that another officer also used his boot to kick cell doors for counts, but he said that neither he nor the other officer ever used expletives with the detainees or said anything inappropriate or unprofessional. Nevertheless, this officer acknowledged that the detainees experienced "sleep deprivation" from a combination of having cell lights illuminated around the clock and the frequent counts. Another officer confirmed that detainees often were awake for the midnight and 3:00 a.m. counts.

Because the detainees were not moved from their cells during the night, staff members were not required to video record nighttime activities. As a result, none of the videotapes we reviewed showed the ADMAX SHU at night or showed the officers conducting counts at night. Due to the lack of videotape evidence and officers' denials, we were unable to substantiate the detainees' allegations that the officers gratuitously banged on the cell doors or woke up detainees unnecessarily. However, the combination of cells being continuously illuminated and the BOP requirement that officers had to see the detainees' skin during each count in the evenings caused detainees to be awakened regularly and suffer from sleep deprivation.

## **E. T-Shirt with Flag and Slogan**

As discussed above, many detainees alleged that staff members slammed or pushed them into the wall in the sally port where they were pat searched upon first arriving at the MDC. Numerous detainees recalled that a t-shirt was taped to a wall and that their faces were pressed against the t-shirt. For example, a detainee told us that staff members put his face right in the t-shirt, like he had to “kiss it.”

In 11 videotapes we reviewed of a detainee entering the MDC, the staff members placed the detainee’s face or head against or right next to the t-shirt while performing a pat search and exchanging the detainee’s restraints.<sup>33</sup> The tapes show that the t-shirt was taped to the wall at eye-level near the bottom of the ramp in the sally port, across from where vehicles parked to unload detainees. In large, typed print on the t-shirt below the American flag were the words, “These colors don’t run.” The t-shirt was taped to the right of a large, red plastic sign reminding law enforcement personnel to lock up their firearms before entering the facility. The t-shirt was noticeable, especially because it seemed clearly out of place against a large block wall that was unadorned, except for the professionally designed plastic sign.

Most officers we interviewed who were involved in escorting detainees through R&D either specifically denied seeing the t-shirt or said they did not recall a t-shirt on the wall in the sally port area. A few officers said they remembered a t-shirt or flag on the wall in the sally port. While several claimed that the t-shirt was innocuous and merely a patriotic gesture, three staff members told us they were troubled by how the t-shirt was being used.

One of the three staff members worked in R&D and remembered that the t-shirt was placed on the wall in mid-September 2001, several days after the detainees began arriving at the MDC. He said that when the detainees were pat searched, officers leaned them into the wall and placed their faces against the t-shirt. The R&D staff member believed the purpose of the t-shirt was to send a message to the detainees. He did not know when the t-shirt was taken down, although he remembered seeing it on the floor once before it was placed again on the wall.

The second staff member, a lieutenant, told us that he was disturbed when he observed officers abusing the t-shirt by using it to “acclimate detainees to the MDC” and send a message to them. He said that when the detainees were in front of the t-shirt, the officers roughed them up and

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<sup>33</sup> As stated above, even though the MDC instituted a policy beginning in early October 2001 to videotape all movements of detainees, including their escort through R&D, approximately 13 of the more than 300 videotapes that we received showed detainees in R&D.

“manhandled” them more aggressively than necessary. He said he brought his concerns about the t-shirt to the attention of a senior MDC management official, and he thought the t-shirt finally was taken down after he reported it.<sup>34</sup>

The third staff member, also a lieutenant, said he thought the t-shirt was “inappropriate and unprofessional.” He claimed that he took the t-shirt down and threw it on the ground on five separate occasions, but staff members kept placing it back up on the wall. The lieutenant said he finally threw it in the trash before mid-November 2001.

We found, however, that in the earliest and latest videotapes that we viewed – in early October 2001 and mid-February 2002 – the t-shirt was displayed in the sally port where the detainees entered the institution. We observed the t-shirt on the wall in every video of the sally port during this time period. These videotapes contradict staff members’ denials that the t-shirt existed and the lieutenant’s claim that he took the t-shirt down five times and finally threw it away before mid-November 2001.

These videotapes further show that the way staff members used the t-shirt leaves little doubt that its placement was intentional. For example, in one videotape a staff member loudly ordered a detainee to, “Look straight ahead!” while he firmly pressed the detainee’s upper torso into the wall and the t-shirt so that the detainee’s eyes were directly in front of the phrase, “These colors don’t run.” Several other videotapes also indicate that the officers intentionally placed the detainees against the wall on or near the t-shirt.

Three videotapes of the lieutenant who claimed that he removed the t-shirt from the wall on five separate occasions showed him leading and pressing detainees against the t-shirt when he was searching them. This lieutenant never appeared uncomfortable with the t-shirt or the way in which it was used, as he maintained in his interview with us. For example, in one videotape he ordered a detainee to lift his head up twice until the detainee was looking directly at the flag and the phrase on the t-shirt.

In our view, the way in which the t-shirt was used by staff members was highly unprofessional. See BOP P.S. 3420.09 (“It is essential to the orderly running of any Bureau facility that employees conduct themselves professionally.”) We also did not find credible staff members’ claims that they lacked knowledge about the t-shirt, especially when we subsequently viewed videotapes showing several of these same officers in front of the t-shirt frisking detainees.

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<sup>34</sup> The senior MDC management official denied that any lieutenant brought concerns about the t-shirt to his attention until after it was already taken down.



## **F. Obtaining Videotapes from the MDC**

Shortly after the September 11 attacks, BOP Headquarters sent out a national directive to all regional directors to install video cameras in each September 11 detainee's cell.<sup>35</sup> Some MDC staff members told the OIG that the cameras were installed in the detainees' cells by mid-October 2001, although we learned from other staff members that the cameras were not operating in the cells until February 2002, which is the date on the earliest cell tape the MDC provided us.<sup>36</sup> A senior MDC official confirmed to us that the cell cameras in the ADMAX SHU were not operational until early February 2002.<sup>37</sup> He attributed the delay to logistical and electrical problems.

We determined that the MDC began on October 5, 2001, to videotape the movements of the detainees with handheld camcorders. The impetus for this practice was that a detainee complained to a judge on October 4, 2001, that he had been physically abused by staff members upon entering the MDC the previous day. According to an October 18, 2001, memorandum issued by a senior MDC management official, the purpose of taping detainee movements was to address "serious security concerns." In a memorandum dated October 9, 2001, the BOP Northeast Regional Director instructed all wardens in the region, which included the MDC warden, to videotape any movement of September 11 detainees outside their cells. The memorandum stated that the videotape policy was intended to deter unfounded allegations of abuse by the detainees. The memorandum also directed the wardens to preserve the videotapes indefinitely.

After wardens complained about the difficulties of storing and purchasing vast quantities of videotapes, the policy of preserving the videotapes indefinitely changed when a new regional director, M.E. "Mickey" Ray, issued a memorandum on December 18, 2001, which stated that videotapes had to be retained for only 30 days. After 30 days, videotapes had to be recorded over or incinerated. The only exception was for tapes showing "use of force" incidents and incidents where a detainee alleged abuse; these tapes had to be kept for two years and preserved as evidence in the SIS safe.

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<sup>35</sup> This policy was communicated by BOP Assistant Director Michael Cooksey to all BOP Regional Directors in a series of video conference calls that occurred between September 13 and September 20, 2001.

<sup>36</sup> When we requested the tapes in July 2003, the MDC had cell tapes for February 17, 2002, 3 days in March, 14 days in April, and every day from May through August 2002 when the last September 11 detainee was transferred out of the ADMAX SHU.

<sup>37</sup> Yet, this MDC official, in a memorandum dated October 5, 2001, certified that the in-cell cameras were installed and operating in 31 cells on the South Tier of the SHU where the detainees were held.

During the course of our investigation, we made several requests to MDC officials for videotapes. However, the officials' responses to our requests were inconsistent and inadequate. In response to each of our requests, we obtained additional videotapes that we previously had been told were destroyed or reused.

When the OIG first initiated an investigation of the detainee abuse allegations in October 2001, we requested all tapes for the detainees from the date they first arrived to a date in November 2001. The MDC provided the OIG with 14 tapes and indicated that tapes from other dates had been taped over or destroyed.<sup>38</sup>

In the spring of 2002, the OIG requested from the MDC all videotapes of the detainees from September 2001 to April 2002. Warden Zenk told the OIG that copying such a large number of tapes would be onerous, that the MDC already had given the OIG all the tapes relating to abuse allegations from detainees, and that the MDC received permission in December 2001 to begin recycling or destroying tapes. Warden Zenk and the OIG staff agreed that the MDC would give the OIG nine days of videotapes that related to allegations of abuse raised by detainees interviewed by the OIG. However, the OIG received tapes for only six days, totaling approximately 45 tapes.

In June 2003, the OIG again specifically requested all the videotapes pertaining to all detainees. In response, the MDC provided us with eight tapes from the SIS safe that had not been provided previously.

In early July 2003, we met with an MDC Special Investigative Agent (SIA) and asked for a further explanation of the MDC's procedure for handling and storing videotapes. The SIA mentioned a storage room, only accessible to the SIS staff, in which he thought there still might be videotapes of the detainees from October and November 2001. We requested that he send us those and any other videotapes of the detainees that we did not already have. After about a month, we still had not received the requested tapes, and we contacted Warden Zenk to ask about the tapes. He referred us to a former SIA who previously had been responsible for the videotapes and had since transferred to the BOP regional office. We asked the former SIA for an inventory of the tapes in the storage room.

Despite frequent prompting, we did not receive an inventory from the MDC until August 13, 2003, approximately five weeks from the time we first asked for the videotapes in the storage room. The inventory was largely unhelpful in that it listed over 2,000 tapes, mostly from April 2002 through

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<sup>38</sup> Four of the 14 tapes provided by the MDC either were blank or did not have footage of any of the detainees.

August 2002, and it was unclear whether the tapes were from in-cell or handheld cameras. The earliest tapes listed on the inventory were from February 17, 2002.

On August 20, 2003, we visited the MDC to make sense of the inventory and visit the storage room where the tapes were located. The SIA we met with in July escorted us to the storage room that was located in a second building of the MDC. Upon entering the room, we immediately observed a significant number of boxes of videotapes lining much of the wall. The boxes were clearly marked in large handwriting, "Tapes" with dates beginning on October 5, 2001, and continuing to February 2002. These tapes were the only ones omitted from the August 2003 inventory of tapes that had been provided to us by the MDC staff. The SIA said that he did not know why these tapes were not included on the inventory. We took the 308 newly discovered videotapes to review.<sup>39</sup> These 308 tapes provided much of the evidence discussed in this report corroborating many of the detainees' allegations. Many of the tapes contradicted statements of MDC staff members about the treatment of the detainees.

Discovering such a substantial number of videotapes so late in our investigation also caused a significant delay in our ability to complete this report. Moreover, even with these newly discovered tapes, significant gaps existed in the MDC's production of videotapes. For example, we received less than 15 tapes that depicted the detainees being brought into the MDC, either for the first time or when they returned from court appearances or other meetings.<sup>40</sup> In addition, many tapes start or stop in the middle of detainees' escorts. There also are no tapes from some "use of force" incidents, even though these tapes should have been preserved for two years under BOP policy. MDC officials could not explain these omissions.

As discussed previously, we confirmed many of the detainees' allegations by reviewing the tapes, even though the detainees alleged that the abuse dropped off precipitously after video cameras were introduced. Several detainees said that officers referred to the cameras as the detainees' "best friend." Conversely, the videotapes did not refute any of the detainees'

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<sup>39</sup> We also took four tapes from February 17, 2002, that were listed on the MDC's inventory and a tape from April 2, 2002, that was not listed on the inventory. While searching in the room, we noticed that there was no tape from April 2, 2002, the date that a detainee alleged staff members physically abused him during a "use of force" incident. When we asked the SIA where it was, he said that a senior MDC management official had it in his office because he was reviewing it, and the SIA retrieved it from the office for us.

<sup>40</sup> An MDC officer confirmed to us that not all escorts were recorded. He said that some movements were not recorded because officers were unable to find a camcorder. He said that while seven camcorders initially were purchased for the unit, over time the camcorders disappeared.

allegations. It is also apparent from our review of several hundred tapes that the officers were cognizant of the presence of the cameras. In one tape, the camera operator reminded an officer who was berating a detainee that the tape was running, which caused the officer to control himself immediately. On another videotape, when an officer was holding the head of a detainee firmly against the wall, a lieutenant appeared to notice the video camera and quickly swatted away the officer's hand from the detainee's head.

We also heard a lieutenant twice order someone to turn the camera off when he was discussing matters with other officers that he apparently did not want videotaped. A few minutes after giving his instruction to turn off the tape and apparently not knowing that the audio was still running, this lieutenant suggested how the officers could break some detainees' hunger strikes: "We'll cure them . . . I want them to stay on a hunger strike. Don't cure anybody; let 'em stay. Let's get a team. Let's go with a tube. The first guy that gets that tube shoved down his throat, they'll be cured!" He then stated, "We're going hard," to which another officer responded, "Outstanding!" The lieutenant repeated his statement, "We're going hard."

Sometimes staff members' remarks caught on the audio portion of the videotape substantiated certain allegations by detainees about conditions in the MDC. For example, detainees complained continually that they were deprived of adequate opportunities to make legal calls. In an off-camera remark, one of the lieutenants can be heard stating that the MDC official responsible for giving the detainees their legal calls often waited to provide legal calls until just before a detainee was scheduled to go to court. This confirmed that the official was not regularly offering detainees legal phone calls as required.

### **G. Some Staff Members Lacked Credibility During OIG Interviews**

The videotapes also led us to conclude that several officers lacked credibility in their interviews with the OIG. In our interviews, most staff members, particularly ones still employed by the BOP, denied all detainees' allegations of physical and verbal abuse. In many cases, the staff members were adamant that neither they nor anyone else at the MDC engaged in any of the alleged misconduct.

Because of the delay in the MDC's providing us the videotapes, for almost all interviews of MDC staff members we did not have the benefit of the MDC videotapes. Upon viewing them after the interviews, we saw that some staff members engaged in the very conduct they specifically denied in their interviews. This finding caused us to question the credibility of these staff members and their denials in other areas for which we did not have videotape evidence.

For example, three staff members stated in OIG interviews that they did not press compliant detainees against the wall because that would be inappropriate. In viewing videotapes, however, we saw these same officers pressing compliant detainees into walls. In addition, three other staff members denied that they, or anyone else, had bent or twisted detainees' arms, hands, fingers, or thumbs. Again, we observed on videotapes these same staff members twisting compliant detainees' arms, hands, wrists, or thumbs. Another former officer told us he never saw any officer bend detainees' wrists or pull their thumbs, but in one videotape we saw him bend a compliant detainee's fingers in a way that seemed very painful and did not appear to serve any correctional purpose. Similarly, a lieutenant asserted that he never saw or heard about staff members slamming, pushing, pressing, or firmly placing detainees against the wall, but in a videotape we observed that this lieutenant witnessed staff members forcefully ram a compliant detainee into the wall.<sup>41</sup> In a memorandum he submitted after the incident, the lieutenant described the incident by writing, "The staff placed [the detainee] on the wall until they gained complete control of the inmate and resumed the escort."

Further, another lieutenant claimed to be very disturbed by the t-shirt taped to the wall, but in several videotapes he led detainees right to the t-shirt and exchanged their restraints while officers pressed them against the t-shirt. In another example, an officer adamantly asserted to us that staff members never cursed in front of the detainees. Yet, the videotapes showed several instances when staff cursed in front of this officer and the detainees. In addition, we noted one incident where this officer reminded a colleague that the camera was recording when the colleague cursed about and harassed a detainee.

#### **IV. OIG RECOMMENDATIONS**

We recognize that the MDC faced enormous challenges after the September 11 attacks and that many MDC staff members responded to these challenges by maintaining their professionalism and appropriately performing their duties under difficult and emotional circumstances. However, we believe some staff members acted unprofessionally and abusively. In Appendix A, we describe these specific offenses and the evidence relating to them. We believe that appropriate administrative action should be taken against those employees.

In addition, we believe that the BOP and the MDC should review the evidence from our investigation to better prepare for and respond to future emergencies involving detainees, as well as to improve its routine handling of

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<sup>41</sup> This incident is discussed in detail under "Improper Application and Use of Restraints" in section II (A)(5).

inmates. We therefore offer a series of recommendations to address issues of concern relating to the MDC's treatment of the detainees.

1. During our investigation, we encountered a significant variance of opinion among MDC staff members regarding what restraint and escorting techniques were appropriate for compliant and noncompliant inmates. We recommend that the BOP provide clear, specific guidance for BOP staff members on what restraint and escorting techniques are and are not appropriate. This guidance could take the form of written policy and demonstrations or examples given during training. The guidance should address techniques at issue in this investigation, including placing inmates' faces against the wall, stepping on inmates' leg restraint chains, and using pain compliance methods on inmates' hands and arms.
2. We found that the MDC regularly audio taped detainees' meetings with their attorneys, in violation of 28 C.F.R. § 543.13(e) and BOP policy. We recommend that BOP management take immediate steps to educate its staff on the law prohibiting, except in specific limited circumstances, the audio monitoring of communications between inmates and their attorneys.
3. While the staff members denied verbally abusing the detainees, we found evidence of staff members making threats to detainees and engaging in conduct that was demeaning to the detainees. We recommend that the BOP and MDC management counsel MDC staff members concerning language that is abusive and inappropriate and remind them of the BOP policy concerning verbal abuse.
4. Because specific officers were not pre-assigned to escort detainees to and from the ADMAX SHU, the lieutenants in charge of escorts used available staff from throughout the institution for the escort teams. Several lieutenants told us that the lack of designated teams contributed to the potential for abuse on escorts. Likewise, while specific staff members were assigned to the ADMAX SHU, we observed on videotapes that staff members from all over the institution, including staff members who had little or no experience handling inmates, were on the ADMAX SHU and had physical contact with the detainees. We recommend that institutions select and train experienced officers to handle high security and sensitive inmates, enforce the policy that a comprehensive log of duty officers and a log for visitors be maintained on the unit, and restrict access to the unit to the assigned staff members, absent exigent circumstances. MDC staff members advised us that officer logs, visitor logs, and restrictions on access to the unit were in place for the ADMAX SHU, but the videotapes showed that the procedures were not followed.

5. By requiring that all detainees' movements be videotaped and installing cameras in each ADMAX SHU cell, BOP and MDC officials took steps to help deter abuse of September 11 detainees and to refute unfounded allegations of abuse. Once the MDC began videotaping all detainee movements, incidents and allegations of physical and verbal abuse significantly decreased. We therefore recommend that the BOP analyze and consider implementing a policy to videotape movements of sensitive or high-security inmates as soon as they arrive at institutions.
6. We found evidence indicating that many of the strip searches conducted on the ADMAX SHU were filmed in their entirety and frequently showed the detainees naked. The strip searches also did not afford the detainees much privacy, leaving them exposed to female officers who were in the vicinity. In addition, the policy for strip searching detainees on the ADMAX SHU was applied inconsistently, many of the strip searches appeared to be unnecessary, and a few appeared to be intended to punish the detainees. For example, many detainees were strip searched after attorney and social visits, even though these visits were in no-contact rooms separated by thick glass, the detainees were restrained, and the visits were filmed.

We believe that the BOP should develop a national policy regarding the videotaping of strip searches. We also believe MDC management should provide inmates with some degree of privacy when conducting these strip searches, to the extent that security is not compromised.

In addition, MDC staff members complained to us and to each other off-camera of inadequate resources on the ADMAX SHU to handle the large number of detainees. Because a strip search involves three or four officers, the BOP should review its policies of requiring strip searches for circumstances where it would be impossible for an inmate to have obtained contraband, such as after no-contact attorney or social visits, unless the specific circumstances warrant suspicion.

7. We found evidence that some MDC medical personnel failed to ask detainees how they were injured or to examine detainees who alleged they were injured. We recommend MDC and BOP management reinforce to health services personnel that they should ask inmates how they were injured, examine inmates' alleged injuries, and record their findings in the medical records.

## V. CONCLUSION

This report details our investigation of allegations of physical and verbal abuse against some detainees at the MDC. It is important to note that these allegations were not against all officers at the MDC, and that most MDC officers performed their duties in a professional manner under difficult circumstances in the aftermath of the September 11 terrorist attacks. After the attacks, the MDC staff worked long hours for extended periods, without detailed information about the detainees' connections to the attacks or to terrorism in general. Moreover, some MDC staff members lost relatives, friends, and colleagues in the attacks. The atmosphere at the MDC was highly charged and emotional, particularly in the initial period after the attacks.

However, these circumstances do not justify any abuse towards any detainee, as the BOP officers we interviewed readily acknowledged. We concluded that some MDC staff members did abuse some of the detainees. We did not find that the detainees were brutally beaten, but we found evidence that some officers slammed detainees against the wall, twisted their arms and hands in painful ways, stepped on their leg restraint chains, and punished them by keeping them restrained for long periods of time. We determined that the way these MDC officers handled some detainees was in many respects unprofessional, inappropriate, and in violation of BOP policy.

As described in detail in this report, we based our conclusion on a variety of factors. First, the detainees' allegations were specific and, although not identical, largely consistent. In addition, several detainees appeared credible to us when we interviewed them.

Second, the detainees did not make blanket allegations of mistreatment, but distinguished certain MDC officers as abusive and others as professional. Also, the detainees' allegations about their treatment at the MDC contrasted with their description of their treatment at other detention facilities. Most detainees did not have complaints about their treatment at other institutions or by other officers – their allegations of abuse generally were confined to their treatment at the MDC.

Third, several MDC officers provided first-hand corroboration for allegations of mistreatment, including the identities of the offending officers. These officers also made distinctions among officers and practices, lending credence to their testimony.

Fourth, we found unpersuasive the general and blanket denials of mistreatment by many MDC officers who were the subjects of our review. Some officers denied taking actions that we knew occurred based on videotape evidence and other officers' testimony, and other officers we interviewed described some of their actions in terms that lacked credibility. For example,



some said that detainees never were pressed against the wall or even touched the wall, which we know to be untrue. Others claimed that officers were extraordinarily polite to the detainees, or that they never heard officers curse in the prison, or that they treated the detainees with “kid gloves.” We found many officers lacked credibility and candor regarding their descriptions of what occurred in the MDC, which calls into question their categorical denials of any instances of abuse.

Fifth, videotapes of officers’ interactions with detainees, which we were ultimately able to obtain from the MDC after much difficulty, provided support for the detainees’ allegations and also undercut the statements of various officers. We were told that the abuse of detainees declined when the officers’ actions were being videotaped, which one would expect. Nevertheless, the videotapes showed instances of a detainee being slammed against the wall and detainees being pressed by their heads or necks, despite officers’ denials that this ever occurred and despite statements by senior BOP officials that such actions were not appropriate. Also, contrary to statements made by several officers in their interviews with the OIG, we heard officers on the videotapes using curses in front of the detainees and making derogatory statements about detainees off-camera. The videotapes also confirm that officers placed detainees against an American flag t-shirt in the sally port, which was taped to the wall in the same place for many months, despite officers’ denials of the existence of such a t-shirt or claims that it was removed after a short time.

Moreover, the videotapes showed that some MDC staff members misused strip searches and restraints to punish detainees and that officers improperly and illegally recorded detainees’ meetings with their attorneys.

In sum, we believe that the evidence developed in our investigation shows physical and verbal abuse of some detainees by some MDC staff members. We believe that the BOP should take administrative action against those employees who committed these abuses. Further, we believe the BOP should take steps to prevent these types of abuse from occurring in the future, including implementing the recommendations we made in this report. We therefore are providing this report to the BOP for appropriate action.