

## Memorandum

**To:** Anthony S. Tangeman  
Deputy Executive Associate Commissioner  
Office of Detention and Removal  
Immigration and Naturalization Service

**From:** Arnold & Porter

**Date:** November 4, 2002

**Re:** Compliance with Detention Standards at  
INS Processing Center, San Pedro, California

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On March 25, 2002, a delegation of six lawyers from our Los Angeles offices visited the INS Processing Center at San Pedro, California.<sup>1</sup> We met members of the facility's INS staff, including Messrs. [REDACTED] (officer in charge), [REDACTED] (chief of deportation) and [REDACTED] (chief of detention) for nearly two hours, toured the facility, and interviewed ten (10) detainees from among those we had identified through contacts with local immigration lawyers. Each interview was conducted by two lawyers, with one taking primary responsibility for questions and the other observing and taking notes. Our purpose was evaluation of compliance with the INS Detention Standards, and in particular, those concerning living conditions and access to visitors, attorneys and legal materials. We appreciated the staff's courtesy, professionalism and willingness to answer our questions. This memorandum contains our collective impressions and evaluation.

### EXECUTIVE SUMMARY

INS staff with whom we spoke appeared familiar with the Detention Standards, and have made substantial efforts to comply. In general, the facility seems reasonably clean, safe and secure. Food service appears adequate, with reasonable variety, and accommodates

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<sup>1</sup> [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]

We retain file memoranda summarizing our attorneys' impressions of the visit, compliance with particular categories of standards (e.g., religious affairs) and detainee interviews. In order to protect the anonymity of detainees with varying circumstances, command of English and sophistication, this memorandum does not disclose their names.

religious and other special diets. Arrangements for outdoor recreation and telephones are also adequate.

However, interviews and observations gave us concern that:

- Family visits are often abbreviated because of physical limitations. There are approximately 400 detainees, but only five small visiting rooms, suitable for a single visitor. Family members may wait for hours, and see detainees for only a few minutes, or not at all. Additional visiting hours or, when possible, additional visiting rooms would improve matters.
- Access to the library is limited, partly because of physical limitations. Legal materials are kept in a closed cabinet, and some of those materials were to be out of date. Staff apparently allows no more than a handful of photocopies at a time, thus restricting access to legal materials. Open shelves for legal materials, more knowledgeable staff (one position was being advertised) and some additional equipment and supplies (such as typewriters) would be helpful.
- Some detainees may not receive medical attention promptly, because of a staff shortage. Recently introduced daily sick calls attempt to assure that serious conditions receive immediate attention, but answers to our questions from both the Public Health Service staff in the facility's clinic, and from detainees, suggest that they are short-handed. Staff shortages may explain complaints from some detainees that serious conditions do not always receive prompt, appropriate medical attention. We do not know whether those complaints are justified, and recent introduction of regular sick calls may have alleviated whatever problems existed. Nonetheless, these statements gave us concern, and merit continuing management attention from INS.
- Grievance procedures described by the Standards (and, for that matter, the facility handbook) may not be fully effective. Some detainees asserted that complaints were ignored, torn up, or immune from any appeal. We could not determine, from one visit and a few interviews, whether these statements to us were justified, and if so, whether they were isolated incidents. Nonetheless, we recommend that INS review the effectiveness of its grievance procedure at San Pedro.

We believe that many of these conditions, and others cited below, could be improved with additional staff and modest modifications to the facility and/or procedures.

### **INS DETENTION STANDARDS**

The Immigration and Naturalization Service (INS) issued the INS Detention Standards ("Standards") contained in the Detention Operation Manual in November 2000 to ensure the "safe, secure and humane treatment of individuals detained by the INS." The thirty-six Standards cover a broad spectrum of issues ranging from visitation policies to

grievance procedures and food service. The Standards constitute a “floor,” not a “ceiling,” for treatment of INS detainees. In other words, they are meant to establish the minimal requirements.

This memorandum evaluates the San Pedro Processing Center’s compliance with the Standards. We emphasize Standards where compliance is of particular importance to achievement of the Standards’ stated goal: “safe, secure and humane treatment” of INS detainees. In particular, we focus on compliance with the following Standards: (1) Visitation; (2) Telephone Access; (3) Legal Materials; (4) Group Rights Presentations; (5) Recreation Issues; (6) Classes; (7) Medical Issues; and (8) Religious Issues.

## **STANDARDS COMPLIANCE REVIEW**

### **1. GENERAL INFORMATION**

#### ***1.1. The Facility<sup>2</sup>***

The San Pedro facility sits on an artificial peninsula in Los Angeles Harbor, adjacent to the Terminal Island federal prison, within the perimeter supervised by the Bureau of Prisons, but outside the prison’s wire fences. The INS occupies a five or six story structure that appears modern, but is reportedly several decades old. We were informed that the building was originally constructed for the Coast Guard, but has been extensively remodeled and modernized for its current use. INS has occupied the building since 1991.

Steep, curved wire fences topped with razor wire surround the perimeter. Access is through an electric gate, manned by Lyons Security, the private contractor that provides security throughout. Asphalt areas along the east and north sides appear to be used for employee parking. In the rear, separated by more wire fences and razor wire, is another recreation area, including an enclosure for those confined in adjacent segregation cells.

The waiting area is small, with seating for perhaps a dozen visitors. Behind the security desk are prominently displayed three recent accreditation certificates from the American Corrections Association. To the left are five small visitors’ booths. Detainees see visitors through thick glass and speak with visitors on telephone handsets. Contact visits are not permitted. The booths accommodate one visitor at a time.

Detainees have complained about air conditioning, but the building remained comfortable throughout our visit (on a bright, cool spring day). However, the air on the ground floor and basement seemed damp, with a slight (not particularly unpleasant) musty odor, and ceiling vents appeared tarnished with golden-colored corrosion or deposits. All windows are sealed and covered with reflective (presumably one-way) glass.

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<sup>2</sup> The description of the facility reported in this section reflects observation by b6 confirmed by other members of the delegation.

The basement houses the processing area for new arrivals, kitchens, a health clinic, and segregation cells. New arrivals are held in one of three holding tanks, which have benches for 15-25 persons, open toilets and drinking fountains. There they receive clothing, detainee manuals and health inspections. Arrivals usually occur late at night, so it was virtually empty during our visit. Manuals (described below) are available in English, Spanish and Chinese. The kitchen appeared to be a clean, well-equipped institutional kitchen. The Public Health Service (“PHS”) operates a clinic (described below) in the basement, and sees detainees on arrival or when they answer sick calls. The clinic, though small, appeared clean and orderly. The segregation area consists of several cells, each with room for two to four detainees, who are allowed outside for an hour’s exercise daily. Otherwise, they are apparently confined to their cells. Small openings in the cell doors suggest that they receive their meals in their cells, and may be handcuffed whenever they leave their cells.

The ground floor houses administrative offices, office space and training areas for Lyons Security, visiting rooms (described above), three rooms for visits with attorneys (each equipped with steel benches and tables sufficient to accommodate four persons). The rooms have adequate fluorescent light, and thick doors so that private conversations are possible. Across the hall is a small immigration courtroom, with seats for perhaps 15-20 spectators.

Detainees are housed in the upper floors, in L-shaped “pods” with barracks-style sleeping areas on one side, and day rooms on the other. An enclosed security desk, open restroom and shower room are in between, at the corner of the ‘L’. Detainees sleep on steel bunks, with thin mattresses. They wear denim jumpsuits and sweatshirts, with slip-on canvas shoes. Uniforms are color coded according to classification – non-criminals in orange, felons in blue, aggravated felons in red. Each has a small plastic container (approximately as large as a briefcase) for personal belongings. Bath and shower areas have tile floors and wainscoting (which appeared clean), with low partitions (for security reasons). Day rooms have steel benches, configured like picnic tables, televisions (with posted schedules, that include the “Know Your Rights” videotape), and pay telephones, with appropriate instructions about collect calls, phone cards and the rest. Also posted conspicuously is information about *pro bono* lawyers (again in three languages). Guards dispense toothpaste, soap, shampoo and other such items from the security desk. Supplies appeared adequate, and most were individual-sized packages of familiar brand-name supplies (such as Colgate toothpaste).

We saw three “pods.” All were essentially identical. None was overcrowded. All appeared reasonably clean and orderly. Detainees told us that the environment was reasonably safe. There is reportedly some friction among those detained, as well as occasional thefts and (according to the staff, fights); but overall, and especially when compared with reported conditions at many jails and prisons, the conditions appeared reasonably safe. INS reports there have been no disturbances, apart from occasional

fighters. Conditions have improved as population of this formerly overcrowded facility has fallen to approximately 400.

A small library is on an upper floor.. It appeared to have current or near current copies of most of the required legal materials, as well as hundreds of paperback books, some magazines, and four PCs, which can be used for legal materials. Legal materials were also available on the PCs, through conveniently organized menus and screens. Seating is limited, and visits are limited to an hour a day.

Detainees may spend their hour of daily recreation time in a rooftop recreation area, or a similar, somewhat smaller recreation area downstairs behind the building. The recreation area has vending machines, pay phones, a ping-pong table, board games and a basketball court. Free weights have been removed (though empty racks for the weights remain). There appears to be an ample supply of basketballs, soccer balls and table games. One member of our team tested one of the phones on the rooftop recreation area, and it worked normally. Instructions were posted for use of phones, collect calls, phone cards and the like. The outdoor recreation area behind the building was similar, and had a separate enclosure for detainees held in segregation.

## **1.2. *Detainee Handbook***<sup>3</sup>

The Standards require that each facility “develop a site-specific detainee handbook to serve as an overview of, and guide to, the detention policies, rules, and procedures in effect at the facility. The handbook is to describe the services, programs, and opportunities available through various sources including the facility.”<sup>4</sup> The handbook is supposed to constitute a comprehensive guide to life in the facility.<sup>5</sup> Handbooks are intended to give detainees notice of all applicable rules, policies, and privileges of the facility.<sup>6</sup> We received English and Spanish copies of San Pedro’s manual, and read the English version, which appeared well organized and reasonably complete, although we cannot be sure that all readers, including native speakers of English, fully understand the rules, regulations and obligations described by the manual.

According to INS personnel we interviewed, arriving detainees should receive a copy of the handbook, which is currently available in Spanish and Chinese, as well as English. However, compliance with this standard may be inconsistent. One detainee interviewed said that he had not received a handbook upon arrival, and that when he asked, was told that the only copies available were in Spanish.<sup>7</sup> Another detainee said he received an

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<sup>3</sup> For general observations reported in this subsection, see [REDACTED] notes, Mar. 25, 2002.

<sup>4</sup> Standards, Ch. 19: Detainee Handbook, Sec. I.

<sup>5</sup> *Id.* at III.

<sup>6</sup> *Id.*

<sup>7</sup> See Memorandum re Detainee Interviews, [REDACTED] May 1, 2002.

outdated copy, and had not received the current version, after several requests.<sup>8</sup> The facility's library, he said, had refused to make a copy of the current handbook, although a deputy eventually made him a copy. We do not know whether these are isolated instances, or were accurately reported to us; but they gave our lawyers concern that San Pedro may not yet fully and consistently comply with this Standard.

## 2. VISITATION<sup>9</sup>

Permitted visitors include attorneys, legal assistants, law students, friends, family, and news media. Laptop computers, cameras, recording devices and cellular telephones are prohibited.

### 2.1. Attorneys

The Standards provide that facilities should allow detainees to meet privately with their current or prospective legal representatives and legal assistants.<sup>10</sup> Generally, we found San Pedro in compliance with this Standard.

Attorneys and legal assistants may visit seven days a week. Posted visitation hours are 8:00 a.m. to 11:00 a.m., 1:00 p.m. to 4:00 p.m., and 6:00 p.m. to 9:00 p.m. The hours are posted visibly in the lobby area as well as at the main gate. The hours are also listed in the detainee handbook. Attorneys may call ahead at any time (24 hours a day) to determine if a detainee is at the facility. Detainees are not forced to conclude meetings with attorneys during meals (and boxed meals can apparently be provided), but meetings may be interrupted for counts.

Law students, legal assistants, and other paraprofessionals are allowed to visit if they are working under an attorney's supervision. Interpreters are also allowed, if accompanied by an attorney. Attorneys are not required to present state-issued bar cards, but may rely upon business cards, stationery or confirming calls to the law office.

There are three attorney visitation rooms. All three are "contact" rooms – both attorneys and detainees may sit in the same room, on benches across a steel table, without any wall or other barrier. Guards may view the rooms through small windows in the doors, but doors are heavy and thick, so that conversations with attorneys are inaudible or unintelligible to anyone outside.

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<sup>8</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 Mar. 25, 2002.

<sup>9</sup> *Id.*

<sup>10</sup> Standards, Ch. 1: Visitation, Sec. III.I.1.

One detainee said he was not allowed a contact visit with his female attorney.<sup>11</sup> His attorney's visits had all been conducted in a smaller general visiting room, separated by glass, with conversation over a telephone.

All detainees are subject to pat-down searches after attorney visits.

## **2.2. Family and Friends**

To maintain detainee morale and family relationships, INS encourages visits from families and friends.<sup>12</sup> Detention facilities should permit authorized persons to visit detainees within security and operational constraints.<sup>13</sup> Visiting areas should be "appropriately furnished and arranged and as comfortable and pleasant as practicable."<sup>14</sup> In addition, "[t]he facility's written rules shall specify time limits for visits: 30 minutes minimum, under normal conditions."<sup>15</sup> INS encourages longer visits, especially for family members traveling significant distances to visit.

We found visitation by family and friends to be problematic, largely because of limited visiting hours and facilities for visitors. Visits are permitted on weekends, from 8 AM until 4 PM, and again from 6-9 PM. There are 400 detainees, but only five small visiting rooms, each large enough to accommodate one person. Contact visits with family and friends are not permitted. Visitors are separated by Plexiglas, and must converse with detainees on the telephone. Detainees are subject to pat-down search, after visits. One detainee said that he was repeatedly strip-searched after visits from his wife.

Detainees reported that visitors must wait in line for several hours, and may be turned away without being allowed to visit.<sup>16</sup> Several detainees said that many, even most, visits last only 15 minutes or less.<sup>17</sup> The longest visit described by any detainee we interviewed was 30 minutes.<sup>18</sup> Several detainees said that the facility makes no special arrangements for visitors outside the fixed hours; and one reported that his wife had asked for, but was refused, a weekday visit.<sup>19</sup> We also heard complaints that rooms are too small for wheelchairs, and that the telephones in visiting rooms have

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<sup>11</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED] May 1, 2002.

<sup>12</sup> Standards, Ch. 1: Visitation, Sec. III.I.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at III.G.

<sup>15</sup> *Id.* at III.H (emphasis added).

<sup>16</sup> See, e.g., Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED] May 1, 2002.

<sup>17</sup> See, e.g., *id.*; see also Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED] Mar. 30, 2002.

<sup>18</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED], Mar. 25, 2002.

<sup>19</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED] May 1, 2002.

malfunctioned.<sup>20</sup> A family member's letter about that problem reportedly went unanswered, and no repairs were performed.<sup>21</sup>

To comply with the Standards, we recommend that INS consider remodeling the facility to provide additional visiting rooms and, in the meantime, consider longer visiting hours or other changes in procedure in order to permit detainees to see visiting family and friends for at least 30 minutes.

### 3. TELEPHONE ACCESS<sup>22</sup>

According to the Standards, INS facilities should permit detainees to have "reasonable and equitable access to telephones."<sup>23</sup> In particular, detention centers should allow pre-programmed calls to many public facilities including courts, consular offices, and non-profit organizations.<sup>24</sup> Detainees should have access to telephones during waking hours, and there should be at least one working telephone per twenty-five detainees.<sup>25</sup> The Standards also require that detainees have privacy while making calls related to their case.<sup>26</sup> For legal calls, the call should not be less than 20 minutes.<sup>27</sup> The facility should not electronically monitor detainee's legal calls.<sup>28</sup> A list of *pro bono* agencies should also be posted by each phone along with multilingual instructions on how to make calls.<sup>29</sup> Prompt delivery of telephone messages to detainees is also required.<sup>30</sup>

Overall, the San Pedro facility provides detainees with reasonable access to telephones. There were approximately four or five telephones in each of the several "pods" (described below) where detainees are housed, and spend most of their time. Telephones are also installed in some of the recreation areas, hallways, and visitation areas. All telephones are wall-mounted, rack installations with privacy panels (similar to those in many airports) that afford limited privacy.

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<sup>20</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED] Mar. 25, 2002.

<sup>21</sup> *Id.*

<sup>22</sup> For general observations reported in this section, see Memorandum re Telephone Access, [REDACTED] b6 [REDACTED], Mar. 30, 2002.

<sup>23</sup> Standards, Ch. 2: Telephone Access, Sec. I.

<sup>24</sup> *Id.* at III.E.

<sup>25</sup> *Id.* at III.C.

<sup>26</sup> *Id.* at III.J.

<sup>27</sup> *Id.* at III.F.

<sup>28</sup> *Id.* at III.J.

<sup>29</sup> *Id.* at III.E.

<sup>30</sup> *Id.* at III.I.



Instructions were posted in English, Spanish, and Chinese alongside all telephones. Adjacent bulletin boards listed various *pro bono* legal services next to the telephones and they were usually pre-programmed calls. One of our lawyers made a pre-programmed call to one of the *pro bono* legal services and was able to talk to someone answering the call.

According to the staff, neither INS nor the guards monitor any calls. The facility also delivers telephone messages from attorneys, family, or friends generally within about an hour. Occasional lapses were reported to us – such as longer delays or missed messages – but this did not appear to be a widespread concern. Detainees are allowed to use the telephones in the pods 24 hours daily, except during counts or emergencies. There is usually no limit on how much time detainees are allowed to spend per call, unless many others are waiting.

Detainees may purchase pre-paid telephone cards. San Pedro uses PCS for telephone service, and calls cost 17 cents per minute. Detainees can also make collect calls to some areas. However, one detainee we interviewed said that he is unable to make collect calls to his attorney.<sup>31</sup> As a result, he uses telephone cards for all of his calls to his attorney, which he cannot easily afford. He asked the facility personnel to fix the problem but reported that there have been no changes.

#### **4. ACCESS TO LEGAL MATERIALS<sup>32</sup>**

The Standards call for a library with current copies of a variety of immigration-related legal materials.<sup>33</sup> The library must be large enough for detainee research and writing, well lit, reasonably quiet, and have sufficient tables and chairs to accommodate all detainees requesting library use.<sup>34</sup> The facility is required to provide legal materials, equipment, and office supplies sufficient for detainees to prepare legal documents.<sup>35</sup> A “flexible” schedule should permit detainees to use the library at least five hours per week.<sup>36</sup> San Pedro’s library seemed sufficiently quiet and well lit, but appears too small, not all the materials were current, and access to legal materials and other supplies and

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<sup>31</sup> See [REDACTED] notes, Mar. 25, 2002.

<sup>32</sup> For general observations reported in this section, see Memorandum, [REDACTED] May 1, 2002.

<sup>33</sup> Standards, Ch. 4: Access to Legal Material, Sec. I.

<sup>34</sup> *Id.* at III.A.

<sup>35</sup> *Id.* at III.B.

<sup>36</sup> *Id.* at III.G.

equipment appeared insufficient to enable detainees to research and prepare legal documents.<sup>37</sup>

#### **4.1. Materials**

The Standards require facility libraries to maintain legal materials listed in Attachment A-2 to the Standards.<sup>38</sup> Materials should be updated regularly.<sup>39</sup> The Standards require each facility to designate an employee to update the materials, inspect them weekly, and maintain them in good order.<sup>40</sup> Two publications were missing from the library: *Considerations for Asylum Officers Adjudicating Asylum Claims From Women* and *Immigration and Naturalization Service Basic Law Manual*. According to the guard, these materials had been checked out by asylum officers.

We did not have sufficient time to determine whether each publication was up-to-date. It appeared that at least a few were not. For example, the library's copy of *Country Reports on Human Rights Practices* was dated 1998. Attachment A-2 indicates that this publication is published annually in February. INS staff told us that the *Interpreter Releases* were not current, and updates had been ordered. A recreation specialist formerly maintained the library, but that position was open at the time of our visit, and they were attempting to hire a replacement. Without a reasonably knowledgeable staff member in charge of the library, its usefulness to detainees may be very limited.

Some legal materials are in the office near the upstairs recreation area. The officer located in that area said they were duplicates of library materials; however, they were not placed in the library due to lack of shelf space. INS staff did not know whether the Florence Project's "Know Your Rights Packets" were in the library. We did not see any such packets during our tour.

Extensive legal materials maintained on compact discs are available using three or four personal computers. We did not have sufficient time to compare the contents with the Standards, but the collection appeared to include court and BIA decisions, statutes, regulations, and a variety of publications and texts. Access seemed convenient through screens, folders and menus familiar to any user of Microsoft Windows. However, we were unable to print test pages with the inkjet printer, some detainees told us that typewriters and PCs were often broken.<sup>41</sup>

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<sup>37</sup> See Memorandum re San Pedro Library and Group Rights Presentations, [REDACTED] b6 May 1, 2002. All of the observations regarding the library and access to legal materials discussed in this report are based on [REDACTED] b6 memorandum.

<sup>38</sup> *Id.* at III.C.

<sup>39</sup> *Id.* at III.E.

<sup>40</sup> *Id.* at III.E.

<sup>41</sup> With PCs, some of these reports may be attributable to system "crashes" or other failures that suitably trained staff could easily correct, rather than failures requiring a technician.

It is our impression that legal materials are not adequately available to detainees at the San Pedro facility. First, detainees have limited access to the library (a maximum of 10 detainees from a given pod are allowed to visit the library a day for one hour). Some detainees said they had sufficient access to the library, but others disagreed.<sup>42</sup> Second, the legal materials are housed in a metal cabinet, so detainees must request specific material,<sup>43</sup> rather than peruse the books on the shelves. Finally, detainees are allowed only very limited copying of materials (according to the facility officer, a maximum of three pages; according to one detainee we interviewed, no copies are allowed).<sup>44</sup> Immigration law is extremely complex. We doubt that such limited copying is sufficient, and question whether detainees have sufficient time to use the library.

#### **4.2. Library**

The library consisted of a small room with shelves holding paperback books lining the walls. There were several tables and chairs for approximately ten people. In the rear are three personal computers and two typewriters. A locked metal cabinet just inside the door holds printed legal materials. The library was well lit and appeared to be located in a quiet area. The library accommodates only 10 detainees at a time.

The facility staff said that the library was open from 8 AM until 9 PM., with ten people from each of the seven pods having access to the library for one hour a day. Detainees need not choose between library and recreation time.

INS officers said detainees had little interest in visiting the library and so that the 10-person limit was sufficient to meet detainee needs. Our interviews suggested otherwise (even though the population includes large numbers of people with limited English skills). Opinions varied among detainees, but the interviews indicated that library space often fills up, so that detainees who want to visit the library are unable to do so, or unable to do so as frequently or for as long as they may reasonably need.<sup>45</sup>

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<sup>42</sup> See, e.g., Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED] May 1, 2002.

<sup>43</sup> The *Standards* require the facility to supervise the library adequately and take precautions against vandalism to the materials. Standards, Ch. 4: Access to Legal Material, Sec. III.H. The metal cabinet may be an attempt to comply with this requirement. However, given the limited time detainees are permitted in the library on a given visit, the locked metal cabinets may restrict access to the materials. As there are only 10 detainees in the library at a given time, a less restrictive procedure could both ensure against vandalism and provide better access.

<sup>44</sup> See [REDACTED] b6 [REDACTED] notes, Mar. 25, 2002.

<sup>45</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED], May 1, 2002; Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED] Mar. 25, 2002; Memorandum re Detainee Interviews, [REDACTED] b6 [REDACTED] Mar. 30, 2002.

The Standards require that segregated detainees have the same access to the library as other detainees, unless compelling security concerns dictate otherwise.<sup>46</sup> According to INS officers, detainees in segregation may request library access; but if there should be particular security concerns, the guards will bring the segregated detainee any requested materials.

We recommend that San Pedro improve compliance by (1) increasing the time detainees are permitted access to the materials in the library; (2) increasing the number of pages detainees may copy; (3) making the library materials more accessible to the detainees (*e.g.*, placing them on shelves for detainees to peruse rather than keeping them in a locked metal cabinet); and (4) placing the facility’s extra copies of materials in the library.

### **4.3. Photocopies and Mail**

#### **4.3.1. Photocopies**

The Standards require the facility to provide “reasonable and necessary” photocopies of legal materials.<sup>47</sup> The Standards list four permissible bases for denying a request to photocopy legal materials including: security concerns, copying in violation of law, and “clearly abusive or excessive” requests.<sup>48</sup> The facility staff indicated that detainees may request INS officials to photocopy a “reasonable” number of pages. They defined a reasonable number as up to three pages, free of charge. Given the complexity of immigration law, the length of many statutes, regulations and court decisions, a three page limit for photocopying legal materials seems too restrictive and inconsistent with the Standards and underlying policies.

#### **4.3.2. Mail**

The Standards require that indigent detainees receive free envelopes and stamps for legal related materials.<sup>49</sup> If the facility does not have a process for purchasing stamps, it should allow detainees to mail all “special correspondence”<sup>50</sup> and a “reasonable amount of general correspondence (at least five items per week).”<sup>51</sup> The Standards also require

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<sup>46</sup> *Id.* at III.N.

<sup>47</sup> *Id.* at III.J.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at III.O.

<sup>50</sup> “Special Correspondence” is defined in Ch. 10 of the *Standards*, the definition section. In sum, the definition includes all legal-related correspondence, correspondence to political representatives or government agencies, and correspondence to the media. All other correspondence is defined as “General Correspondence.”

<sup>51</sup> Standards, Ch. 9: Correspondence and Other Mail, Sec. III.I.

the facility to provide envelopes, paper, and writing instruments to all detainees.<sup>52</sup> The facility staff said they provide free envelopes and stamps for legal matters to all detainees. They also stated that there was no limit to the amount of materials provided. However, some detainees told us that they were limited to one envelope daily.<sup>53</sup>

#### **4.4. Computer Access, Equipment, and Holdings**

The Standards require an adequate number of typewriters and/or computers, carbon paper, writing instruments, paper, and non-toxic liquid paper to be available for use by detainees.<sup>54</sup> Three computers and two typewriters are available in the library. A single ink jet printer is attached to the three computers (and we were unable to print when we attempted to do so). The computers are not available for word-processing and detainees are unable to save materials from the computers to a disk, so in practice, only the two typewriters are available to legal correspondence or documents. The facility staff said that they also provide the detainees with half-pencils, without erasers. They do not provide liquid paper. Our interviews with the detainees indicate that two typewriters are insufficient to meet the needs of detainees preparing legal documents.<sup>55</sup> The typewriters are reported to be frequently out of correction tape or otherwise out of order.<sup>56</sup>

### **5. GROUP RIGHTS PRESENTATIONS<sup>57</sup>**

The Standards require detention facilities to permit authorized persons to make presentations to groups of detainees for the purposes of informing them of immigration law and procedure, consistent with the orderly and secure operation of the facility.<sup>58</sup> At San Pedro, the Catholic Legal Immigrant Network (commonly known as “CLINIC”) conducts such presentations in the facility’s courtroom on most Friday afternoons. Seating is limited to approximately two dozen people. INS staff told us that no other groups have asked to make such presentations. According to the detainee interviews, however, most detainees were unaware of the CLINIC’s group rights presentations.<sup>59</sup> The facility should announce these presentations to detainees on a regular basis. However, the Florence Project’s “Know Your Rights” video is shown every day in English and Spanish.

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<sup>52</sup> *Id.* at III.J.

<sup>53</sup> See Memorandum re Detainee Interviews, [REDACTED], Mar. 30, 2002.

<sup>54</sup> *Id.* at III.B.

<sup>55</sup> See [REDACTED] notes, May. 25, 2002; Memorandum re Detainee Interviews, [REDACTED] May 1, 2002.

<sup>56</sup> See Memorandum re Detainee Interviews, [REDACTED], May 1, 2002.

<sup>57</sup> For general observations reported in this section, see Memorandum re San Pedro Library and Group Rights Presentations, [REDACTED] May 1, 2002.

<sup>58</sup> Standards, Ch. 3: Group Presentation on Legal Rights, Sec. I.

<sup>59</sup> See Memorandum re Detainee Interviews, [REDACTED] Mar. 30, 2002; [REDACTED] notes, Mar. 25, 2002.

## 6. RECREATION

The Standards require that “all facilities shall provide INS detainees with access to recreational programs and activities, under conditions of security and supervision that protect their safety and welfare.”<sup>60</sup> Every effort is to be made to provide outdoor recreation facilities, having access to sunlight.<sup>61</sup> Overall, the San Pedro facility seemed to meet the standard for recreation, but there are no classes, other than limited English instruction for Chinese detainees.

San Pedro has two outdoor recreation areas (described above), one on the roof and the other at the rear of the facility. Both outdoor areas are fenced with asphalt or similar surfaces. Each recreation area has a basketball court, a ping-pong table, a soccer area, and some exercise equipment (which appeared to be weight racks from which free weights had been removed). Given Southern California’s dry, balmy climate, the two outdoor recreation areas are usable most of the time, except during winter rains or occasional summer and early autumn heat waves (when the blacktop surfaces are hot to the touch, and radiate excessive heat). At those times, recreation is presumably limited to board games, cards and the like in limited areas sheltered from sun or rain.

One hour of outdoor recreation is mandatory for all detainees on weekdays, and an hour’s voluntary outdoor recreation is available on Saturdays and Sundays. The same rules apply to segregated detainees, although their recreation area is the small, gated enclosure described above.

According to INS staff, no classes are offered other than daily English classes for Chinese detainees. Many detainees we interviewed expressed strong interest in attending some classes; but INS staff said classes (other than the English lessons) were impractical because of rapid turnover in the population, who are, they said, typically paroled, deported or transferred within 90 days.<sup>62</sup> Despite the practical difficulty cited by INS staff, we would encourage them to reconsider, as some people are confined for much longer periods, and classes could offer all some relief from the boredom and stress associated with confinement and uncertainty about their ultimate fates.

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<sup>60</sup> Standards, Ch. 27: Recreation, Sec. I.

<sup>61</sup> *Id.* at III.A.

<sup>62</sup> However, one of the detainees we interviewed had been detained at San Pedro for two years and nine months. Another detainee had been detained for nine months.

## 7. MEDICAL ISSUES<sup>63</sup>

The Standards require that all detainees have access to medical services and that the facility provide all its detainees with initial medical screening, effective primary medical care, and emergency care.<sup>64</sup> The facility must also maintain current accreditation by the National Commission on Correctional Health Care.<sup>65</sup> In addition, each facility must have regularly scheduled times (such as daily “sick calls”) when medical personnel are available to examine detainees.<sup>66</sup> If the facility’s detainee population exceeds 200, the facility must have sick call at least five times a week.<sup>67</sup> Finally, the Standards mandate that if a detainee requires emergency medical care, an officer must immediately take the appropriate steps to promptly contact a health care provider.<sup>68</sup>

### 7.1. *General Access to Health Care*

At San Pedro, all detainees receive initial medical screening on arrival. The Public Health Services screens detainees and if they observe a medical problem, they advise the facility staff to seek further medical attention. Records from local jails or other facilities transmitted on arrival are supposed to include medical information, such as regular medication. PHS staff said (and detainees confirmed) that PHS is short-handed, even with a doctor on staff, and several nurses serving at various times. To meet the workload, they rely upon part-time help from some recently retired personnel. Urgent cases are sent to nearby hospitals. The medical area in the facility appeared clean and orderly. San Pedro had recently instituted a daily “sick call” on weekdays. When a detainee requests medical care, the detainee must fill out a request form and submit it to the nurse who visits each pod on weekdays. Others are seen in the clinic area, after daily sick call. A priority system is in place, so that the sickest are seen first, and most detainees are seen by a medical doctor, nurse practitioner or nurse within a couple of days of arrival. There is no infirmary.

However, some of the detainees we interviewed said they did not have consistent access to necessary medical care.<sup>69</sup> Some detainees said they were not seen for as long as a week after submitting a request slip to one of the nurses. Two detainees said that they were often denied simple medications such as Tylenol because the pods would be out of

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<sup>63</sup> For general observations reported in this section, see Memorandum re Recreational, Medical and Religious Standards, [REDACTED] b6, April 11, 2002.

<sup>64</sup> Standards, Ch. 24: Medical Care, Secs. I & III.A.

<sup>65</sup> *Id.* at I.

<sup>66</sup> *Id.* at III.F.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at III.G. & III.H.

<sup>69</sup> See Memorandum re Detainee Interviews, [REDACTED] b6, Mar. 30, 2002; Memorandum re Detainee Interviews, [REDACTED] b6, May 1, 2002.

them. Some of these reported situations may have improved since the (apparently recent) introduction of daily sick calls on weekdays.

### **7.2. *Mental Health Services***

The facility has a psychiatrist available on Thursdays. If the psychiatrist finds it necessary, detainees may be referred to a mental health hospital located off site (to either Del Amo Hospital in California or the long-term mental health facility in South Carolina). A psychologist is available five days a week.

### **7.3. *Emergencies***

INS staff said they send urgent cases requiring emergency care to San Pedro Hospital. However, some detainees said they did not receive emergency care when required,<sup>70</sup> and if this is so, the facility would not meet the Standards. We could not verify the accuracy of these reports, or determine whether particular situations actually required hospital care. However, even allowing for possible inaccuracies, exaggerations, or over-reactions on the part of those we interviewed, their statements gave us concern that given the facility's staff limitations, the number of languages spoken by the population and other constraints, genuine emergency cases might not always or consistently receive appropriate and immediate attention. We recommend that INS management and PHS review San Pedro's procedures, staffing and experience in order to determine whether these reports to us are justified, and if so, take appropriate remedial action.

### **7.4. *HIV***

Detainees are not screened for HIV unless they request screening. Detainees with HIV are not segregated from the rest of the population unless it is medically necessary for the detainees' health or protection.

## **8. RELIGIOUS ISSUES<sup>71</sup>**

The Standards require that detainees of different religious beliefs be provided reasonable and equitable opportunities to participate in the practices of their respective faiths.<sup>72</sup> "Those opportunities will exist for all equally, regardless of the number of practitioners of a given religion, whether the religion is 'mainstream,' whether the religion is 'Western' or 'Eastern,' or other such factors."<sup>73</sup>

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<sup>70</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 Mar. 25, 2002.

<sup>71</sup> For general observations reported in this section, see Memorandum re Recreational, Medical and Religious Standards, [REDACTED] b6 April 11, 2002.

<sup>72</sup> Standards, Ch. 28: Religious Practices, Sec. I.

<sup>73</sup> *Id.*



Overall, the San Pedro facility appears to meet the standard pertaining to religious issues. The facility has a full-time chaplain, a Jesuit priest, who oversees all religious activities (not merely Catholic services and detainees) but his is not a permanent position. The services vary for different religions, and programs are posted in all pods for the different religious services. Any detainee may request and conduct a meeting with the chaplain. If detainees ask to see a specific religious minister or counselor, the chaplain will attempt to bring in such a counselor for religious services. Other religious counseling is also available from community volunteers. The facility staff stated that all denominations are given full access to religious practices/services at the facility. The facility accommodates detainees with special religious diets on a daily basis. Detainees are also allowed to have some religious items in their belongings, such as prayer beads, softbound books,<sup>74</sup> and religious headgear.

The detainees we interviewed happened to be Christians, who said there were religious services at the pods on a regular basis. One Pakistani detainee who had converted from Islam to Christianity said he had been harassed by other Moslem detainees.<sup>75</sup> Informal Bible study is allowed. However, two detainees said that they were refused access to outside religious counseling.<sup>76</sup> One detainee said his pastor had attempted to visit but was unable to do so.<sup>77</sup>

## **9. OTHER ISSUES<sup>78</sup>**

### ***9.1. Detainee Classification***

The Standards call for detainees to be classified upon arrival before admission into the main population.<sup>79</sup> Classification is to be performed by trained officers, and detainees are to be kept in detention until all information necessary for the classification process is received.<sup>80</sup> The classification is based upon security risk, and detainees' security classification must be easily identifiable by color-coded uniforms or wristbands.<sup>81</sup> The Standards also bar "Level 1 detainees" (non-criminal detainees or non-violent detainees guilty of petty offenses) from interacting with "Level 3 detainees" (those convicted of

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<sup>74</sup> Those of the Muslim faith are allowed to keep a hardbound Koran, as the Koran is not made softbound.

<sup>75</sup> See Memorandum re Detainee Interviews, [REDACTED], May 1, 2002.

<sup>76</sup> See *Id.*

<sup>77</sup> See Memorandum re Detainee Interviews, [REDACTED], Mar. 25, 2002.

<sup>78</sup> For general observations reported in this section, see Memorandum re Miscellaneous Issues, [REDACTED] April 10, 2002.

<sup>79</sup> Standards, Ch. 6: Detainee Classification System, Sec. III.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* at III.B.

aggravated felonies).<sup>82</sup> The Standards call for reclassification after 45 to 60 days and every 60 to 90 days thereafter.<sup>83</sup> Detainees should have the right to appeal their classification.<sup>84</sup>

The San Pedro facility staff told us that the detainees are subject to on-site review and classification upon arrival. Detainees receive a medical screening and are reviewed for security risks based on their criminal histories. The detainees receive color-coded wristbands and uniforms based on their security classification: orange for non-criminal detainees, blue for criminal/felony detainees, and red for aggravated felons. Criminal and non-criminal detainees are not allowed to interact.<sup>85</sup> Detainees are not classified based on their HIV status.

Our tour of the San Pedro facility largely confirmed the staff's explanation of the security classification. We visited three pods: a female non-criminal pod, a female criminal pod, and a male criminal pod. In each, the detainees wore the respective color-coded uniforms. We also saw the basement reception area (described above).

During interviews, two detainees reported that detainees also are classified by race.<sup>86</sup> This inadvertently was confirmed during the staff interview, when a staff member mentioned that English classes are held in the "Chinese pod." Similarly, the male criminal pod we visited appeared to house mainly Hispanic detainees. Apparently, the racial classification is for purposes of avoiding disruption and fights between detainees of different races in the pods. Another detainee also stated that there is a specific "medical pod." The detainee implied that the "medical pod" consists primarily of psychiatric cases, noting that half of the detainees confined there are on medication.

## **9.2. Accommodations**

The Standards require that a facility have an excess clothing inventory of at least 200% of the detainee population.<sup>87</sup> The standard issue for each detainee is one uniform shirt, one pair of pants or jumpsuit, one pair of socks, one pair of underwear, and one set of footwear.<sup>88</sup> A standard bedding set includes one mattress, one blanket, one pillow, two

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<sup>82</sup> *Id.* at III.E.

<sup>83</sup> *Id.* at III.G.

<sup>84</sup> *Id.* at III.H.

<sup>85</sup> Presumably, this prohibition only applies to female detainees at the San Pedro facility as there are no male non-criminal detainees there.

<sup>86</sup> *See, e.g.*, Memorandum re Detainee Interviews, b6, Mar. 30, 2002.

<sup>87</sup> Standards, Ch. 7: Issuance and Exchange of Clothing, Bedding and Towels, Sec. III.A.

<sup>88</sup> *Id.* at III.B.

sheets, and one pillowcase.<sup>89</sup> Undergarments are to be exchanged daily; outer garments are to be exchanged at least twice weekly with no more than 72 hours between exchanges.<sup>90</sup> Food service workers are to exchange their outer garments daily.<sup>91</sup> Bed linens are to be exchanged weekly.

The San Pedro facility appeared to conform generally with standards for accommodations. The facility staff informed us that detainees are supplied with two sets of clothes, and that female detainees are provided with sleeping garments in addition to the uniform jumpsuits. The staff also stated that bed linens and clothes are exchanged every other day. Finally, we were told that hygiene kits (*e.g.*, toothbrushes and toothpaste) are supplied to the detainees, on arrival, and when required, by the control rooms in each pod. During our tour, we observed supplies of soap, shampoo, toothpaste, razors and the like).

The three pods we saw during our tour of the San Pedro facility were all identically arranged. The sleeping area in each pod features numerous closely-spaced steel bunks with a mattress atop each bunk. No “boats” (plastic cots in which a mattress may be placed) in use; but during the tour, we were shown stored boats and told that boats had been used when the facility was overcrowded.

Each pod control room was stocked with miniature toothbrushes and sample size packages of name-brand toothpaste, soap, deodorant and similar items. During the tour, we saw detainees obtain hygiene items from pod control. We also saw a stockpile of detainee uniforms in the processing area. Although we did not verify inventories, it appeared that the facility had ample spare clothing. Substantial inventories were visible in the basement arrivals area.

Detainees confirmed that hygiene items are readily available and that clothing is regularly washed and exchanged. One detainee stated that it could be difficult to obtain new clothing when clothing becomes old and worn.<sup>92</sup> Although detainees agreed that bed linens are changed, their accounts of how frequently linens are changed varied considerably. One detainee stated that linens are changed once a week; some said every two to three weeks; yet another said monthly.<sup>93</sup> There may have been some confusion, and some detainees may not change clothing or linen frequently, but all the time periods mentioned by detainees were longer than the “every other day” answer given by the facility staff.

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<sup>89</sup> *Id.* at III.C.

<sup>90</sup> *Id.* at III.E.

<sup>91</sup> *Id.*

<sup>92</sup> See Memorandum re Detainee Interviews, [REDACTED], Mar. 25, 2002.

<sup>93</sup> See, *e.g.*, *id.*

The detainees raised several other issues with sleeping arrangements and hygiene. One detainee stated that he and other detainees have never been given pillows and that bedding materials are not warm enough for cold nights at the facility.<sup>94</sup> Another detainee noted that some people are allergic to the hygiene items supplied.<sup>95</sup>

### **9.3. Personal Items**

The Standards state that detainees may keep up to \$40 in their personal possession.<sup>96</sup> However, the OIC may determine how much cash, if any, detainees may retain.<sup>97</sup> The Standards allow detainees to also keep the following items: small religious items; softcover reading materials and correspondence; legal documents; up to ten 5 by 7 pictures; glasses; dentures; an address book; wedding ring; and other approved items.<sup>98</sup> Detainees are not allowed to keep cash over the facility limit, negotiable instruments, jewelry, clothing not provided by the facility, prohibited publications, and unauthorized medication.<sup>99</sup> The Standards require each facility to have an inventory and auditing system for property that may not be held on a detainee's person such as cash over the prescribed limit.<sup>100</sup> Facilities must have a written policy for return of items to a detainee upon their departure from the facility.<sup>101</sup>

The San Pedro facility appears to conform to the standard for personal items. The facility allows the detainees to keep up to \$50 on their persons. The detainees are allowed to keep photos, softcover books, and legal documents with them. The facility staff was vague about other items which detainees may keep. Presumably the vagueness was driven by security concerns; staff often noted that decisions on personal property are made on a case-by-case basis.

During our tour, we were shown plastic suitcase-sized boxes in which detainees may store personal items. Detainees confirmed that they are able to keep religious items with them, and several kept religious items such as Bibles, rosaries, and crosses among their belongings. They also keep legal documents with them (and one or two brought thick case files to their interviews). One interviewee stated that detainees are not allowed to

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<sup>94</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 May 1, 2002.

<sup>95</sup> See [REDACTED] b6 notes, Mar. 25, 2002.

<sup>96</sup> Standards, Ch. 17: Funds and Personal Property, Sec. III.B.4.

<sup>97</sup> *Id.* at III.B.1.

<sup>98</sup> *Id.* at III.B.4.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.* at III.F.

<sup>101</sup> *Id.* at III.G.

keep pictures and that personal items are searched while detainees are at recreation.<sup>102</sup> One detainee voiced concern that money is often lost in the mail and noted that there is no way to cash checks or money orders in the facility. Another detainee also complained that other detainees had stolen money from him.

#### ***9.4. Dietary Requirements***

The Standards are vague on nutritional requirements, but dictate the organization of food services. Food service is to be run by a professional Food Service Administrator,<sup>103</sup> assisted by a Cook Supervisor.<sup>104</sup> The Standards also note that custody and supervision of the kitchen is the responsibility of food service.<sup>105</sup> The Standards require that knives be kept locked and under the control of the cook foreman.<sup>106</sup> The Food Service Administrator is responsible for providing “nutritionally adequate menus” for the detainees.<sup>107</sup>

Overall, the San Pedro facility appears to meet the Standards for food service. During our tour, we met the facility’s Food Service Administrator. The administrator assured us that the facility passes all health inspections, feeds detainees 3,000 calories daily. Menus are prepared pursuant to the Liberalized Diet Manual used by many federal institutions, on a 35 day cycle. Menus are reviewed by a dietitian. Food service allows for special diets required for medical or religious reasons (e.g., diabetic, vegetarian, renal failure, Ramadan). Meals are served to detainees in the day rooms on each pods. There is no mess hall. The detainees we interviewed had no strong complaints about the food, and INS management expressed pride in their food service. They say they have had no food-related disturbances, food-borne illnesses or similar troubles. The kitchen appeared clean, if crowded, with equipment apparently in good working order.

Detainees confirmed that the facility accommodates religious diets. Two detainees said that the food compares favorably with other facilities in which they have been confined.<sup>108</sup> However, one detainee said that: (i) he does not trust the meat, and once found a worm in a corn dog, (ii) he was served fish after informing staff that he is allergic to fish, and (iii) vending machines often do not work.<sup>109</sup> Another detainee voiced

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<sup>102</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 May 1, 2002.

<sup>103</sup> Standards, Ch. 16: Food Service, Sec. III.A.1.

<sup>104</sup> *Id.* at III.A.2.

<sup>105</sup> *Id.* at III.B.1.

<sup>106</sup> *Id.* at III.B.2.

<sup>107</sup> *Id.* at III.A.1.

<sup>108</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 Mar. 25, 2002.

<sup>109</sup> See *id.* We observed that vending machine charges (apparently \$1 for any item) were higher than charges on vending machines provided for INS staff.

concern that there is no canteen or other way to get food aside from the three scheduled meals.<sup>110</sup>

### **9.5. Work Program**

The Standards require that every physically and mentally able detainee have an opportunity to work.<sup>111</sup> Work assignments are to be made based on a detainee's security classification.<sup>112</sup> All detainees are responsible for their own personal housekeeping.<sup>113</sup> Qualified detainees cannot be denied work assignments on the basis of factors such as race, religion, physical or mental handicap, or national origin.<sup>114</sup> Supervisory officials must consider the precise limitations of disabled individuals before rejecting them for particular work assignments.<sup>115</sup> Work is limited to eight hours per day, and to a maximum of 40 hours per week. Workers are to be paid \$1 per day and are to be paid daily.<sup>116</sup>

The San Pedro facility appears to meet this standard. The facility staff indicated that detainees may work in food service, pod cleaning, processing, and in the laundry. Staff also stated that detainees work from six to eight hours per day and are paid \$1 per day.

During our tour, we saw detainees working in the kitchen and we saw some cleaning crews made up of detainees. Interviewees confirmed that work is available and that workers are paid \$1 per day. The most common complaint, voiced by two detainees, was that workers are not paid on time and often must wait several days to be paid.<sup>117</sup> However, another detainee stated that workers are paid daily.<sup>118</sup> One detainee reported that staff did not allow him to work because he was disabled.<sup>119</sup> Another detainee reported that he worked 10 to 12 hours some days, out of his own volition.

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<sup>110</sup> See Memorandum re Detainee Interviews; [REDACTED] b6, Mar. 30, 2002.

<sup>111</sup> Standards, Ch. 37: Voluntary Work Program, Sec. III.A.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* at III.C.

<sup>114</sup> *Id.* at III.F.

<sup>115</sup> *Id.* at III.G.

<sup>116</sup> *Id.* at III.K.

<sup>117</sup> See Memorandum re Detainee Interviews, [REDACTED] b6, May 1, 2002.

<sup>118</sup> See Memorandum re Detainee Interviews, [REDACTED] b6, Mar. 25, 2002.

<sup>119</sup> See *id.*

## 9.6. *Grievance Procedures*

The Standards aim for an informal resolution of most detainee grievances.<sup>120</sup> However, each facility is required to have a formal written grievance process.<sup>121</sup> The facility is to provide assistance for illiterate, disabled, and non-English speaking detainees,<sup>122</sup> and detainees may obtain assistance in preparing grievances from other detainees, facility staff, and outside sources.<sup>123</sup> Detainees are to be provided with written grievance forms on request,<sup>124</sup> and forms may be submitted up to five days after an objectionable event.<sup>125</sup> The completed form is to be delivered without delay to the on-duty supervisor,<sup>126</sup> who is to meet with the detainee.<sup>127</sup> If the supervisor is unable to resolve the problem, a notation is made on the grievance form which is forwarded to the department head.<sup>128</sup> If the detainee does not accept the department head's proposed solution, the grievance is forwarded to the Detainee Grievance Committee which must make a ruling within five days of convening, stating the reasons for its ruling.<sup>129</sup> The detainee can appeal the committee's ruling to the officer in charge ("OIC"), who must respond within five days and may uphold, modify or reverse the committee ruling.<sup>130</sup> The Standards prohibit retaliation against detainees for filing a grievance,<sup>131</sup> and facilities are required to keep a record of grievances.<sup>132</sup> Allegations of officer misconduct must be forwarded to supervisors or higher-level officials, and the INS is to investigate all such allegations.<sup>133</sup>

The San Pedro staff said their goal is to resolve disputes informally whenever possible and noted that most disputes are in fact resolved informally. They also explained that a formal process is in place and that grievance forms are available in the pods. The staff did not go into detail when describing the grievance procedure, but they noted that the process includes immediate review by the officer on duty, and later review by the OIC.

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<sup>120</sup> Standards, Ch. 18: Detainee Grievance Procedures, Sec. III.A.1.

<sup>121</sup> *Id.* at III.A.2.

<sup>122</sup> *Id.* at III.A.2.6.

<sup>123</sup> *Id.* at III.A.2.4.

<sup>124</sup> *Id.* at III.A.2.1.

<sup>125</sup> *Id.* at III.A.2.

<sup>126</sup> *Id.* at III.A.2.3.

<sup>127</sup> *Id.* at III.A.2.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.* at III.C.

<sup>131</sup> *Id.* at III.D.

<sup>132</sup> *Id.* at III.E.

<sup>133</sup> *Id.* at III.F.

The staff also stated that detainees could pursue their grievances all the way to the INS District Director.

Lyons Security, a private contractor, provides the guards for San Pedro. INS staff said that INS may remove individual private security officers. Within this year alone, five private officers had been released. Officers are most commonly removed for improper dealings with detainees (*e.g.*, passing messages for them) and for improper fraternization with female detainees. Private security officers are required to undergo full-time training, including a two-week training academy, before working at San Pedro.

Although the detainee interviews confirmed that grievance forms are available, the forms were not readily visible during our tour of the pods. Several detainees were critical of the grievance process. One detainee said that virtually nothing would be done even if grievance forms were submitted.<sup>134</sup> Two detainees stated that there is no appeal if a grievance is not favorably decided.<sup>135</sup> One detainee stated that nothing is done in writing about grievances; another detainee stated that officers tore up grievance forms after receiving them.<sup>136</sup> Only one detainee was satisfied with the grievance process.<sup>137</sup> This detainee stated that simply asking for a written grievance form often makes the security officers act more appropriately.

Detainees varied in their descriptions of the security officers. One detainee stated that he had never had problems with the officers; another reported witnessing an incident in which an officer struck a detainee who was trying to break up a fight; yet another detainee stated that the officers are often rude.<sup>138</sup>

The San Pedro facility complies with the Standards by providing grievance forms and the formal procedure described by the handbook. However, it is not clear whether grievances are acted upon promptly and appropriately, and the number and tenor of detainee comments gave us concern – although we could not independently verify the accuracy of detainee complaints that grievances had been ignored or discarded. Nonetheless, we suggest that INS management consider reviewing the actual performance of the grievance process through periodic review or spot-checks to confirm that complaints are fairly and impartially reviewed and, in appropriate cases, acted upon.

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<sup>134</sup> See [redacted] notes, Mar. 25, 2002.

<sup>135</sup> See Memorandum re Detainee Interviews, [redacted] May 1, 2002.

<sup>136</sup> See *id.*

<sup>137</sup> See Memorandum re Detainee Interviews, [redacted], Mar. 25, 2002.

<sup>138</sup> See Memorandum re Detainee Interviews, [redacted] May 1, 2002.



### **9.7. Disciplinary and Administrative Segregation**

The Standards allow detainees to be placed in administrative segregation when they pose a threat to themselves, to staff, to other detainees, or to the security or proper operation of the facility.<sup>139</sup> Administrative segregation may also be used for protective custody, for those awaiting disciplinary hearings, and for those in medical isolation.<sup>140</sup> This form of segregation is nonpunitive,<sup>141</sup> and time served in administrative segregation awaiting a disciplinary hearing may be deducted from time spent in disciplinary segregation.<sup>142</sup> Cases are reviewed by the OIC and by the Supervisory Detention Enforcement Officer to determine if they are appropriate for segregation.<sup>143</sup> A segregation order, stating the reasons for segregation, must promptly be delivered to the detainee.<sup>144</sup> A status review is to take place within 72 hours of placement, then once a week for the first month of segregation, and monthly thereafter.<sup>145</sup> A detainee has seven days to appeal a review decision.<sup>146</sup>

Detainees in administrative segregation are entitled to the usual three meals a day and to recreation.<sup>147</sup> They are also entitled to keep a reasonable amount of nonlegal reading material and personal legal material.<sup>148</sup> Furthermore, segregated detainees are entitled to the same correspondence and library privileges as the general population, and are entitled to comparable visitation privileges.<sup>149</sup>

Disciplinary segregation is allowed only where alternative disciplinary methods are inadequate.<sup>150</sup> Detainees may not spend more than 60 days in disciplinary segregation for a single incident; terms over 30 days require the OIC to send written justification to the Assistant District Director for Detention and Deportation.<sup>151</sup> Detainees may be sent to disciplinary segregation only on order of the Institutional Disciplinary Panel; such

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<sup>139</sup> Standards, Ch. 30: Special Management Unit (Administrative Segregation), Sec. III.A.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> *Id.* at III.A.3.a.

<sup>143</sup> *Id.* at III.A.1.

<sup>144</sup> *Id.* at III.B.1. & 3.

<sup>145</sup> *Id.* at III.C.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.* at III.D.5 & 8.

<sup>148</sup> *Id.* at III.D. 10 & 11.

<sup>149</sup> *Id.* at III.D. 13, 14, & 17.

<sup>150</sup> Standards, Ch. 31: Special Management Unit (Disciplinary Segregation), Sec. III.A.

<sup>151</sup> *Id.*

order must be sent to the detainee within 24 hours of being entered.<sup>152</sup> Detainee status must be reviewed every seven days.<sup>153</sup> Early releases require OIC approval, and a detainee's sanction cannot be extended as a result of a review.<sup>154</sup> Detainees in disciplinary segregation may not be deprived of clothing or bedding except for medical or psychiatric reasons.<sup>155</sup> They are to be fed according to the facility's normal meal schedule, but may only use disposable utensils.<sup>156</sup> They must be allowed to shave and shower at least three times a week and are entitled to recreation time.<sup>157</sup> They are entitled to legal documents unless such would constitute a security hazard and are entitled to comparable (but not identical) library access.<sup>158</sup>

The Standards are vague with respect to medical quarantine, simply noting that: (1) detainees are to be screened upon arrival at the facility, (2) detainees with symptoms of tuberculosis are to be placed in an isolation room and promptly evaluated, and (3) detainees diagnosed with communicable diseases are to be isolated according to local medical procedures.<sup>159</sup>

At the San Pedro facility, staff informed us that administrative segregation is most commonly used for protective custody, medical cases, psychiatric cases, and for detainees on suicide watch. Many detainees (50 to 60) who are in protective custody are housed in a special wing at the Orange County Jail in Santa Ana, California (which we did not visit). Similarly, long-term, severe psychiatric cases are sent to a hospital in South Carolina for treatment.

Medical quarantine can be used in the event of highly communicable diseases; the examples given by the San Pedro staff were chicken pox and tuberculosis. In such an event, the person suspected of having the disease is placed in administrative segregation at the San Pedro facility until a diagnosis is confirmed, and the detainee's pod is quarantined during the same period. INS staff said there had been one TB case in recent years.

In cases of administrative segregation, the facility staff will prepare an incident report within 24 hours of the event, and an investigation occurs within 48 hours. The San Pedro

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<sup>152</sup> *Id.* at III.B.

<sup>153</sup> *Id.* at III.C.

<sup>154</sup> *Id.*

<sup>155</sup> *Id.* at III.D.9.

<sup>156</sup> *Id.* at III.D.10.

<sup>157</sup> *Id.* at III.D. 11 & 13.

<sup>158</sup> *Id.* at III.D.15.

<sup>159</sup> Standards, Ch. 24: Medical Care, Sec. III.D.

facility forwards the results of the investigation to the Unit Disciplinary Committee or Institutional Disciplinary Panel. On occasion, as in the case of a recent assault on a security officer, an incident will be forwarded to the U.S. Attorney's Office for investigation and possible prosecution.

According to INS staff, segregation cases are usually reviewed after five, fifteen, and thirty days, but also noted that "it depends" – an apparent reference to exercise of discretion on a case-by-case basis. There did not appear to be a fixed time period or policy.

During the tour, we were allowed to look into the segregation area from the outside, but were not allowed to enter. We saw the doors to several of the isolation cells, marked as "Disciplinary," "Administrative," or "Medical." The cells can apparently house two to four persons each, and we observed meal trays being delivered to the cells via small openings in cell doors. Our interviews shed little light on segregation, as most detainees had not been segregated. However, it was our impression that the segregation system at the San Pedro facility complies with the Standards.

### ***9.8. Immigration Court***

We observed the immigration courtroom during our tour of the San Pedro facility. It included all the accoutrements of a normal courtroom (bench, witness stand, counsel table, and seats for approximately 20 spectators). Staff also stated that detainees usually have their first court hearing within three weeks of arriving at the facility. However, detainees' reports varied greatly as to the amount of time they had to wait for hearings, from a low of two weeks to a high of 18 months. The variation among responses apparently reflects the uncertainty that generally accompanies immigration proceedings. Detainees are often unaware of immigration procedures, the status of their cases, hearing dates, and in many cases, whether or when they may be deported.

The facility staff stated that detainees are escorted, but not restrained, when being taken to and from court. One detainee stated that he was shackled when taken off-site to meet with his probation officer.<sup>160</sup> This would be consistent with staff's stated policy of restraining detainees when being moved off the facility. However, another detainee stated that he was handcuffed when taken to meet with his INS officer on-site.<sup>161</sup> It is unclear whether this was due to security concerns with this particular detainee.

### ***9.9. INS Presence***

Staff reported that there are approximately 60 INS personnel at the facility, in all capacities. They also reported that they are short-staffed by at least ten people in the

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<sup>160</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 May 1, 2002.

<sup>161</sup> See Memorandum re Detainee Interviews, [REDACTED] b6 Mar. 30, 2002.

detention area. Two contract security guards are assigned to each pod. Detainees have several options for contacting INS personnel: they can call staff members; they can fill out a detainee request form; and they can meet with the deportation officers.

### **CONCLUSION**

Overall, INS staff at San Pedro appear to have made serious efforts to comply with the Standards. We appreciated the courtesy, cooperation and professionalism of the INS officers with whom we met, and who escorted us through the facility. In general, the INS Processing Center at San Pedro seems reasonably clean, safe and secure; and most living arrangements are satisfactory.

However, our inspection revealed some areas where improvement is needed (i.e. enhancement of the library, additional health care staff, and additional visiting rooms). We recognize that economic constraints may affect availability of health professionals, and that physical constraints of this older structure may limit visitation and perhaps the library. We wonder whether (pending any remodeling) changes in procedures (such as weekday visitation, a scheduling system, or alternative use of some other rooms during weekends or evenings) might shorten lines and permit more and longer visits, thus relieving tension and helping to assure compliance with the Detention Standards. Similarly, we recommend that INS management consider ways to increase access to legal materials in the library, as well as access to the library – whether through longer hours, additional space or other expedients that might be implemented quickly and inexpensively.