

MEMORANDUM

To: Anthony S. Tangeman, Deputy Executive Commissioner Office of Detention and Removal

From: American Bar Association Delegation to the Houston Processing Center¹

Re: Report on Observations during a General Tour of the Corrections Corporation of America, Houston, Texas facility

Date: June 4, 2003

This memorandum summarizes and evaluates information gathered at the Corrections Corporation of America ("CCA"), Houston, Texas facility ("Houston Processing Center" or "HPC"), through discussions with HPC and local Immigration and Naturalization Services personnel, interviews of detainees, and observations by delegation members during the delegation's January 22, 2003 visit.

I. INS Detention Standards

The Immigration and Naturalization Service promulgated the "INS Detention Standards" in November 2000 to insure the "safe, secure and humane treatment of individuals detained by the INS." The thirty-six Standards contained in the Detention Operations Manual cover a broad spectrum of issues ranging from visitation policies to grievance procedures and food service. These standards apply to INS Service Processing Centers ("S.P.C."), Contract Detention Facilities ("C.D.F."), and state and local government used by the INS through Intergovernmental Service Agreements ("I.G.S.A."). The Detention Standards went into effect at INS S.P.C.s on January 1, 2001. The INS intended to phase-in the standards in all of its contract facilities, and state and local facilities, by December 31, 2002. The INS Detention Standards constitute a "floor" not a "ceiling" for treatment of INS detainees. In other words, they are meant to establish the minimal requirements that INS must adhere to in its facilities. Each District Office or Officer in Charge ("OIC") may, in his or her discretion, promulgate policies and practices affording INS detainees more enhanced rights and protections than those provided for by the Standards.

II. Introduction

A. The Delegation's January 22nd Visit

On Wednesday, January 22, 2003, the members of our delegation met with several members of CCA's HPC staff and a representative from the INS at the Houston Processing Center, which is located at 15850 Export Plaza Drive, Houston, Texas. Our delegation first met primarily with Warden [b6, b7C] Assistant Warden [b6, b7C] and INS Field Officer [b6, b7C]. During the course of this meeting, our tour of the facilities, and the post-tour follow-up

¹ The delegation was comprised of [b6] Partner at Baker & McKenzie (Houston), [b6] Partner at Baker & McKenzie (Houston), [b6] Partner at Bracewell & Patterson (Houston), [b6] Associate at Bracewell & Patterson (Houston), [b6] Associate at Baker & McKenzie (Houston), and [b6] Law Offices of Renato Santos, Jr. (Houston)

discussion, we met with other CCA and INS personnel who discussed different aspects of the facilities and operations: [REDACTED] Managing Director; [REDACTED] Quality Compliance Officer; [REDACTED] INS Officer in Charge; and [REDACTED] Health Care Service Administrator. Where appropriate, this report will attribute statements to the particular individual who made them.

B. General Information About HPC

The Houston Processing Center is a contract detention facility. CCA personnel informed us that HPC has the capacity to house 506 detainees.² According to CCA personnel, HPC's daily count is greater than capacity because INS regularly holds detainees at HPC for very short periods of time (i.e., one day or less) as they are being transported to deportation at Houston Intercontinental Airport or after being picked up at the airport for passport problems.³

HPC only has regular accommodations for male detainees. A planned expansion of the facility that will add approximately four hundred fifty new beds will include accommodations for female detainees.⁴

Warden [REDACTED] and Assistant Warden [REDACTED] initially estimated that, in general, ninety percent (90%) of the detainees are from Mexico, Guatemala, Honduras, or El Salvador, with substantial populations also from Vietnam and Cuba. The ethnic breakdown of the HPC detainee population on the day of our visit was:

- 354 Hispanics (approximately 70%)
- 41 Asians (approximately 8%)
- 11 Caucasians (approximately 2%)
- 78 Blacks (could be from African or Latin American countries) (approximately 15%)
- 25 others (Arabs, Russian, South Asians) (approximately 5%)⁵

The average stay for detainees at the HPC is approximately forty to forty-five days. Those from Mexico, El Salvador, Honduras, and Guatemala generally have stays that are shorter (approximately twenty to thirty days). However, detainees from countries that will not issue travel documents for them, such as Cuba and Vietnam, have stays that are substantially longer than the average.⁶

Warden [REDACTED] stated that the vast majority of detainees have been charged with a criminal violation.⁷ He also stated that the HPC rarely transfers any detainees to other facilities, and

² Mr. [REDACTED], Ms. [REDACTED] and Mr. [REDACTED] notes. The CCA website (www.correctionscorp.com/tour2.html) states that HPC's capacity is 411. See Ms. [REDACTED] no

³ Mr. [REDACTED] and Mr. [REDACTED] notes.

⁴ Mr. [REDACTED] notes.

⁵ Ms. [REDACTED] and Mr. [REDACTED] notes.

⁶ Mr. [REDACTED] Mr. [REDACTED] Ms. [REDACTED] and Mr. [REDACTED] notes.

⁷ Mr. [REDACTED], Mr. [REDACTED] Mr. [REDACTED] Ms. [REDACTED] and Mr. [REDACTED] notes. Note that the severity of the violation may vary, however. For example, the detainee interviewed by Ms. [REDACTED] stated that the he had been convicted of public intoxication,

estimated that they have transferred only ten to fifteen detainees in the last three years. According to Warden [b6, b7C] when most detainees leave the HPC they are either deported or released.⁸ This estimate of transfers from the HPC contradicts the account that one of our delegation members received from other attorneys that he interviewed who told him that transfers of their clients without notice to counsel had been a problem.⁹

Based on his twenty-seven year career with the Texas Department of Corrections, Warden [b6, b7C] described the detainees as being much less violent than inmates in state prisons.¹⁰ While he acknowledged that there were occasional fights among the detainees,¹¹ he attributed the overall better behavior to the facts that there were fewer violent offenders in the detention center and the detainees recognize the connection between their conduct and their ability to return home quickly.¹²

III. Observations of Implementation of Legal Access Standards

A. Legal Access/Visitation

i. Visitation by Attorneys

The *INS Standards* provide that facilities should allow detainees to meet privately with their current or prospective legal representatives and legal assistants and to meet with their consular officials.¹³

Attorneys are allowed to visit seven days a week at the HPC. The visiting hours are 8:00 am to 5:00 pm Monday thru Friday and 3:00 pm to 7:00 pm on weekends and holidays. These hours are posted both in the general waiting area and in the housing area.¹⁴ A detainee may continue to visit with his attorney through meals or "counts"¹⁵ and, in the event a detainee skips a meal due to such a visit, the meal is made available to the detainee in the visiting area.¹⁶

The area designated for attorney visits is semi-private and consists of a table with a series of temporary cubicles/dividers. There is only enough space for four attorney visits to occur simultaneously. The cubicles are located in the hallway leading into the intake processing area. It appears to be a highly trafficked area and is observable by the HPC staff.¹⁷ According to the

a misdemeanor. Whereas, the detainee interviewed by Mr. [b6] had been convicted of aggravated robbery and served five years in TDC.

⁸ Mr. [b6], Mr. [b6] and Mr. [b6] notes.

⁹ Mr. [b6] notes of conversation with Ms. [b6, b7C]

¹⁰ Mr. [b6] Ms. [b6] and Mr. [b6] notes.

¹¹ Ms. [b6] notes. On the day of our visit, a detainee from Liberia was in administrative segregation for fighting. Mr. [b6] notes.

¹² Mr. [b6] Ms. [b6] and Mr. [b6] notes.

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

¹⁴ Ms. [b6] notes.

¹⁵ Every day, HPC requires the detainees to gather per dormitory so that staff can count them to ensure that all of the detainees are accounted for.

¹⁶ Mr. [b6] notes.

¹⁷ Ms. [b6] notes.

HPC staff, private rooms are available for attorney visits upon request. The room that the HPC staff showed our delegation as being used for this purpose is also the "disciplinary hearing room" and is so labeled.¹⁸ All attorney visitation areas allow for "contact" visits. All detainees are subject to a "pat down" search after an attorney visit.¹⁹

In order for an attorney to visit a detainee at the HPC, the attorney must have and present a bar card.²⁰ Legal assistants and interpreters are allowed to visit detainees; however, they must have a letter from an attorney on file, a back ground check must be run,²¹ and they must get pre-approval from the INS.²²

ii. Visits by Family and Friends²³

In order to facilitate the INS policy of encouraging visitation by detainees' family and friends, the *INS Standards* require that all facilities establish written visitation procedures.²⁴

The HPC Handbook provides that one hour visits by family and friends may be scheduled on either Saturday or Sunday from 7:00 a.m. to 3:00 p.m. Only one visit per weekend is allowed and the assigned day does not rotate.²⁵ During "holidays," visits last thirty minutes, and the duration can be shortened at any time due to "security risks, count or other unanticipated events"²⁶.

Detainees are asked at intake to list six visitors' names (ages 18 and above). Only two of these individuals and two minor children are allowed during a single visit. The Chief of Security must approve in advance any change to the names on a detainee's list of visitors.

On the day of a visit, visitors enter the visiting area in the order in which they arrive. After visitors pass through a metal detector, all visits are contact visits. The visits take place in a large room with tables, chairs and vending machines. Detainees are strip-searched following visits.

The HPC Handbook does not address visits to Administrative or Disciplinary Segregation Detainees. Warden Cook stated that these detainees are allowed to receive visitors in accordance with the *INS Standards*.²⁷

¹⁸ Ms. [b6] notes.

¹⁹ Mr. [b6] notes. See, however, Ms. [b6] notes from interview with detainee [b6, b7C] (Mr. [b6, b7C] stated that he believed that he would be strip searched after an attorney visit. Mr. [b6, b7C] however, has never seen an attorney.)

²⁰ Ms. [b6] notes.

²¹ Warden [b6, b7C] stated that background checks are now required due to the fact that family members were visiting detainees claiming to be legal assistants or interpreters.

²² Mr. [b6] notes.

²³ See VISITING PROCEDURES, HPC Handbook at p. 6.

²⁴ Detention Operations Manual, Detainee Services, Standard 16, Section III.A.

²⁵ It is hoped that families who are prevented by work or religious practice from visiting on either the assigned Saturday or Sunday could make special arrangements to visit on a different day.

²⁶ HPC Handbook at p. 6.

²⁷ Mr. [b6] notes.

B. Telephone Access

The *INS Standards* provide that the facilities shall permit detainees to have reasonable and equitable access to telephones.²⁸

The main detainee access to telephones at the HPC is in the dormitory area and the detainees may freely access the telephones located in such areas. There are telephones in each dormitory area with a ratio of approximately one telephone per twenty-two detainees.²⁹ The telephones in each dorm are not private, but are located in open areas where it appears that background noise from the television and other detainees could interfere.³⁰ In addition, all phone conversations are subject to monitoring by the HPC staff. This policy is posted next to the phone and stated by a recording prior to each phone call.³¹ The HPC staff stated that they rarely monitor ordinary phone calls and never monitor attorney phone calls, though how this distinction is made was not explained.³² Some detainees explained that they found this condition prohibiting.³³

The phones located in the dormitories are accessible by use of a prepaid calling card costing approximately \$0.50/minute.³⁴ Using this calling card, detainees can call anyone they want and may talk for up to fifteen minutes before the phone automatically cuts off.³⁵ A detainee may place as many successive fifteen minute phone calls as he wants, subject to other detainees needing to use the phone.³⁶

In the event a detainee does not have money, collect calls may be made from the dormitory phones; however, we understand that many numbers do not accept collect calls from HPC.³⁷ The HPC staff explained to our delegation that a detainee encountering such a problem would need to contact the person that he is trying to call and straighten such a situation out with the phone company.³⁸ However, it is unclear how a detainee would contact such a person in order to remedy the situation.

If a detainee is unable to use the dormitory phones, the HPC staff will allow the detainee to use one of two pay phones located in the hallway of the intake area next to the attorney

²⁸ Detention Operations Manual, Detainee Services, Standard 15, Section I.

²⁹ Mr. [b6] notes. There are three telephones located in each large dorm (containing 60-75 detainees) and two in each small dorm (containing approximately 40 detainees).

³⁰ Ms. [b6] notes.

³¹ Mr. [b6] notes.

³² Ms. [b6] notes.

³³ Mr. [b6] interview with detainee [b6, b7C] Mr. [b6] interview with detainee [b6, b7C]
[b6, b7C]

Ms. [b6] interview with detainee Mr. [b6, b7C] It is interesting to note that Ms. [b6] claimed to not know how much phone calls from the HPC cost detainees -- that the issue was between the detainee and the phone company. Ms. [b6] notes.

³⁵ Ms. [b6] notes.

³⁶ Ms. [b6] notes. Detainee Mr. [b6, b7C] reported that he never really had problems waiting to use the phone. Detainee Mr. [b6, b7C] stated that the wait is typically 15 minutes.

³⁷ Ms. [b6] notes. Mr. [b6] also tried to make a collect call to his office from the phone, but got a message saying that the number was "restricted."

³⁸ Ms. [b6] notes.

visitation area.³⁹ The HPC staff stated that in the event a detainee is indigent they will give him a quarter and allow him to use the pay phone.⁴⁰ A detainee can call any of the consulates without a charge.⁴¹ HPC also provides notice of toll-free numbers for detainees to use to contact pro bono legal services.⁴² The delegation did not inquire and were not told whether detainees were allowed to make free calls to courts, as they should be.

There were bulletin boards present next to the telephones in the dormitory where instructions were posted both in English and Spanish on how to use the phone. Also posted were a number of pro bono organizations offering assistance and consular telephone numbers.⁴³

C. Legal Materials

The *INS Standards* provide that all facilities holding INS detainees must permit detainees to have access to a law library, and provide legal materials, facilities, equipment and document copying privileges, and the opportunity to prepare legal documents.⁴⁴

i. Material Identified in the *INS Standards*

The *INS Standards* require all law libraries to contain the materials listed in Attachment A of the *Access to Legal Materials* chapter of the *Detention Operations Manual*.⁴⁵ These materials must be updated regularly and information must be added on significant regulatory and statutory changes regarding detention and deportation of aliens in a timely manner. In addition, the *INS Standards* require that the facility post a list of holdings in the law library and designate an employee with responsibility for updating materials, inspecting them weekly, and maintaining them in good working order.⁴⁶

Ms. [b6] is the HPC staff member charged with ensuring that the library meets the requirements set out in the *INS Standards*.⁴⁷ Ms. [b6] acknowledged that certain material on the standards list were not available in the library, however, we were unable to discern precisely which items were missing. She said that they were in the process of making an inventory of what needs to be added in order to bring the library up to date. The justification made for not having all of the materials on the list was that detainees tear out certain important pages, making a particular publication unusable.⁴⁸

ii. Library Conditions

³⁹ Detainee Mr. [b6, b7C] reported to Mr. [b6] that the wait to use such phones can be up to one week.

⁴⁰ Ms. [b6] notes. Note that to be considered indigent a detainee must have less than \$3 in his account at HPC for more than 30 day

⁴¹ Ms. [b6] notes.

⁴² Delegation's notes.

⁴³ Mr. [b6] and Ms. [b6] notes.

⁴⁴ Detention Operations Manual, Detainee Services, Standard 1, Section I.

⁴⁵ Detention Operations Manual, Detainee Services, Standard 1, Section III.C.

⁴⁶ Detention Operations Manual, Detainee Services, Standard 1, Section III.D.

⁴⁷ Ms. [b6] notes.

⁴⁸ Mr. [b6] notes.

The *INS Standards* provide that each facility shall provide a law library in a designated room with sufficient space to facilitate detainees' legal research and writing. The library shall contain a sufficient number of tables and chairs in a well-lit room, reasonably isolated from noisy areas.⁴⁹

The HPC library is reasonably well lit and off of a hallway without much noticeable traffic. The library is large enough to accommodate four large working tables with chairs.⁵⁰ According to the HPC staff, there are approximately fifteen detainees that use the library per night; it does not appear that the library can accommodate more than that.⁵¹

iii. Photocopies and Mail

The *INS Standards* provide that each facility shall ensure that detainees can obtain photocopies of legal material, when such copies are reasonable and necessary for legal proceedings involving the detainee.⁵² In addition, each facility shall provide indigent detainees with free envelopes and stamps for mail related to a legal matter, including correspondence to a legal representative, potential representative, or any court.⁵³

A detainee may request that copies be made and such copies are charged against that detainee's account. The cost for such copies is \$0.10/page.⁵⁴ These requests are fulfilled every Tuesday and Friday.⁵⁵ In the event a detainee is indigent (i.e. has less than \$3 on his account for more than thirty days) he may make copies for free, but such requests are limited to three copies.⁵⁶ In addition, indigent detainees are provided with five stamps, five envelopes, paper, and a writing instrument.⁵⁷

iv. Computer Access, Equipment and Holdings

The *INS Standards* require that the library provide an adequate number of typewriters and/or computers, writing implements, paper, and office supplies to enable detainees to prepare documents for legal proceedings.⁵⁸

The law library of the HPC has two typewriters and one computer.⁵⁹ CCA personnel informed our delegation that the computer had been installed approximately a week before our

⁴⁹ Detention Operations Manual, Detainee Services, Standard 1, Section III.A.

⁵⁰ Ms. [b6] notes.

⁵¹ Ms. [b6] notes.

⁵² Detention Operations Manual, Detainee Services, Standard 1, Section III.J.

⁵³ Detention Operations Manual, Detainee Services, Standard 1, Section III.N.

⁵⁴ Mr. [b6] interview with detainee Mr. [b6, b7C] HPC Manual, p. 11.

⁵⁵ Mr. [b6] interview with detainee Mr. [b6, b7C] HPC Manual, p. 11.

⁵⁶ Ms. [b6] notes, HPC Manual (stating that indigents are allowed 3 copies of each piece of legal paper that must be sent to court), Mr. [b6] interview with detainee [b6, b7C] (stating that indigents were allowed 3 copies per day)

⁵⁷ Ms. [b6] and Mr. [b6] notes.

⁵⁸ Detention Operations Manual, Detainee Services, Standard 1, Section III.B.

⁵⁹ Ms. [b6] notes.

tour of the facility, but some of the detainees told delegation members it had only been put in the day before.⁶⁰ The computer provides access to certain Lexis databases.⁶¹ The computer has no printing capability.⁶² A detainee may request that the HPC staff obtain a copy of any legal material that he locates on the computer, although it is unclear exactly how this process works.⁶³

Over two thirds of the books in the library were leisure reading materials.⁶⁴ The remainder were reference materials and included a Texas criminal code, several sets of old encyclopedias, materials regarding math, and a few very old telephone books.⁶⁵ There were very few Spanish language books in the library.⁶⁶ At least one detainee complained that there was no English-Spanish dictionary.⁶⁷ The HPC staff claimed that the reason that there were not more Spanish language books in the library is that they were all checked out. This is questionable, however, due to the fact that there was no room on the bookshelves for such books.⁶⁸

v. Access to the Library

The *INS Standards* require that the facility devise a flexible schedule to permit all detainees, regardless of housing or classification, to use the law library on a regular basis for a minimum of five hours per week. These five hours should not cause a detainee to miss a meal, recreation time, or any other planned activity.⁶⁹

The library hours at the HPC are 8:30 am to 4:00 pm and 6:00 pm to 8:00 pm. A detainee may use the library every day for one hour during recreation time. He is forced to choose between the two. A detainee can request to use the library for additional time in the evening.⁷⁰ It was reported by the HPC staff that there are approximately fifteen detainees in the library every evening.⁷¹ When more detainees request to use the library than the library can accommodate, detainees are given preference based on need.⁷²

60 Mr. [b6] notes; interviews with detainees Mr. [b6, b7C] and Mr. [b6, b7C].

61 Mr. [b6] notes.

62 Ms. [b6] notes.

63 Ms. [b6] notes.

64 Ms. [b6] notes.

65 Mr. [b6] notes.

66 Mr. [b6] notes.

67 Mr. [b6] interview with detainee Mr. [b6, b7C].

68 Mr. [b6] notes.

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

70 Ms. [b6] notes.

71 Mr. [b6] notes.

72 Mr. [b6] notes.

vi. Notaries, Certified Mail, and Miscellaneous Needs Associated with Legal Matters

The *INS Standards* require that the facility provide assistance to any unrepresented detainee who requests a notary public, certified mail, or other such services to pursue a legal matter if the detainee is unable to meet the need through family members or community organizations.⁷³

Our delegation did not have sufficient time to obtain answers to these questions or verify compliance with the standards. The HPC Manual does, however, outline procedures that a detainee may follow in order to obtain a notary public, certified mail, or other such services.⁷⁴

C. Group Rights Presentations

The *INS Standards* provide that facilities "shall permit authorized persons to make presentations to groups of detainees for the purpose of informing them of U.S. immigration law and procedures consistent with the security and orderly operation of the INS facility."⁷⁵

"Know Your Rights" presentations are provided by pro bono organizations every Monday.⁷⁶ The YMCA, Catholic Charities, and the University of Houston Law School's Immigration Law Clinic alternate making these presentations.⁷⁷ The presentations take place in one of the multipurpose rooms at the facility and detainees are allowed to visit with the presenters after the programs.⁷⁸ There were postings in English and Spanish in the dormitories and on the hallway bulletin about these presentations.⁷⁹ The detainees interviewed all appeared to be aware of the group rights presentations and at least one had attended more than one presentation.⁸⁰ The detainees generally indicated that they felt comfortable talking openly with the presenters after the program.⁸¹

IV. Other General Observations Unrelated to the Legal Access Standards

A. The Houston Processing Center's Detainee Handbook⁸²

⁷³ Detention Operations Manual, Detainee Services, Standard 1, Section III.P.

⁷⁴ HPC Handbook, pp. 6-7.

⁷⁵ Detention Operations Manual, Detainee Services, Standard 9, Section I.

⁷⁶ Mr. [b6] and Mr. [b6] notes.

⁷⁷ Mr. [b6] notes.

⁷⁸ Mr. [b6] notes.

⁷⁹ Mr. [b6] notes.

⁸⁰ Ms. [b6] notes.

⁸¹ Mr. [b6] interview with detainee Mr. [b6, b7C] Ms. [b6] interview with detainee Mr. [b6, b7C].

⁸² On January 3, 2003 Mr. [b6] wrote to Mr. [b6, b7C], SDDO, and requested that he provide a copy of the Houston detainee handbook before the January 22, 2003 visit. CCA representatives readily provided a copy at the visit but not before. The delegation's work was made more difficult, and possibly less effective, by their inability to obtain the HPC Handbook in advance of the visit as it was not possible at the same time to compare thoroughly the HPC Handbook with the applicable INS Standards and to conduct the visit and the interviews. The Houston Delegation recommends that the ABA assist future delegations by causing a copy of the site's Detainee Manual to be provided in advance of the visit.

1. General

The *INS Standards* require that all detention facilities have a site-specific handbook for its detainees. All detainees are to receive a copy of the handbook upon admission to the facility.⁸³

Assistant Warden [b6, b7C] provided a document entitled "Introduction and Orientation for Detainees, Corrections Corporation of America, Houston Processing Center, Revised December 2001." ("HPC Handbook") A copy of the HPC Handbook is attached as Exhibit "A." The HPC Handbook appears to meet the minimum general standard of a site-specific handbook. It provides an overview of the detention policies, rules and procedures and describes the services, programs and opportunities at the HPC.

Our delegation pointed out to Ms. [b6] the Quality Control Manager, that the version of the Handbook posted on the bulletin boards in the dorms and in the hallways was the August 2001 version, not the "current" December 2001 version. We did not compare the posted handbook to the December 2001 version. Ms. [b6] said that this error would be corrected immediately. She also indicated that new bulletin boards that allow for easy posting of new information have been ordered and will be installed soon.⁸⁴

2. Legal Representation Section

One important section of the Handbook that is deficient is the section called "LEGAL REPRESENTATION".⁸⁵ Instead of referring to "free" legal services or even "pro bono" lawyers," the Handbook says that there is a list of "Pro-Bond" (sic) lawyers on the bulletin board in each dorm.⁸⁶ Few detainees would know that a pro bono lawyer is free, and it is unlikely that any of the detainees would know that a "Pro-Bond" lawyer is a typographical error. Given the different meaning of the word "bond" in the immigration context, this is an extremely confusing error that should be corrected. Despite this error, several of the detainees interviewed had been able to obtain free legal counsel.⁸⁷

Similarly, instead of giving the "free" telephone number to call "if you have questions concerning representation or your status ...", the LEGAL REPRESENTATION section of the HPC Handbook refers to a "previously listed 800 number."⁸⁸ Once again, few detainees can be expected to know that an "800 number" is free. Moreover, detainees should not be expected to refer back to a previously listed (somewhere) phone number. The LEGAL REPRESENTATION section should clearly refer to a "free" telephone number and provide the number – not refer to a "previously listed number."

⁸³ Detention Operations Manual. Detainee Services, Standard 5, Section I.

⁸⁴ Mr. [b6] notes.

⁸⁵ HPC Handbook at p. 7.

⁸⁶ A list of pro bono lawyers was posted in the dorms. Mr. [b6] notes.

⁸⁷ See Mr. [b6], Mr. [b6] and Mr. [b6] notes.

⁸⁸ HPC Handbook at p. 7.

The HPC Handbook also states, "CCA/HPC provides an attorney...[to represent a detainee] with civil cases up to the pleading stage." The HPC Handbook, however, is unclear on what this representation would and would not include.⁸⁹ The HPC Handbook also states that an attorney provided by CCA/HPC can **only** be contacted by mail using the "Request for Attorney Conference" form "located at each post and in the law library." One delegation member reported that he did not see any such request forms at the posts by the dorms, although he did see a "Telephone Call Request Form" which refers to "Name of Attorney or Person to be called."⁹⁰ As these forms were not openly available, it appeared that detainees would have to obtain them by requesting them from a CCA employee. Such a procedure, however, would introduce an unnecessary barrier on the detainee's ability to obtain counsel by requiring him to ask for the form.

B. Recreation Issues

The *INS 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."⁹¹ Every effort is to be made to provide outdoor recreation facilities, but lacking such, the recreation room should be large, with exercise equipment and having access to sunlight.

- Detainees are allowed one hour of indoor recreation each day.⁹² They can either go to the library or a recreation room inside the building.⁹³ Detainees are allowed one hour of outdoor recreation each day.⁹⁴
- Detainees at the HPC are allowed at least two hours per day to recreate – one inside and one outside. As described above, detainees wishing to use the library must do so during their inside recreation time, unless they submit a request for extra library time. According to the HPC Handbook, the detainees are also allowed to check out three books for three days to be taken back to the dormitory. However, detainees are not allowed to take legal material, reference materials, and magazines out of the library.⁹⁵
- The HPC Handbook provides that "[r]ecreation may be cancelled at any time for security reasons."⁹⁶
- Detainees in segregation are entitled to the same recreation privileges as other detainees, but must recreate alone for security reasons.⁹⁷ Detainees in segregation may either have books brought to them or, if violent, may make special arrangements to use the library

⁸⁹ No delegation attorney can recall that any CCA employee ever stated that CCA provided attorneys for any purpose.

⁹⁰ Mr. [b6] notes.

⁹¹ Detention Operations Manual, Detainee Services, Standard 13, Section I.

⁹² HPC Handbook, at 3; Mr. [b6] notes.

⁹³ Mr. [b6] notes.

⁹⁴ HPC Handbook, at 3; Mr. [b6] notes.

⁹⁵ HPC Handbook, at 3.

⁹⁶ HPC Handbook, at 3.

⁹⁷ HPC Handbook, at 3; Mr. [b6] notes.

late at night.⁹⁸ As described above, there is a separate outdoor recreation area for segregated individuals. The HPC Handbook states that "eligible segregated detainees will receive recreation Monday through Friday between the hours of 8:00 am to 4:00 pm. Should inclement weather occur, they will receive inside recreation between the hours of 4:00 pm to 12:00 midnight."⁹⁹

C. Classes

- o Both CCA personnel and detainees interviewed informed us that the only classes available at the HPC now are English as a Second Language ("ESL") classes. According to the staff, ESL classes are provided via satellite monitor for detainees who are interested.

D. Medical Issues

The *Standards* provide that "[a]ll detainees shall have access to medical services that promote detainee health and general well-being. Medical facilities in . . . contract detention facilities will maintain current accreditation by the National Commission on Correctional Health Care."¹⁰⁰ In addition, the Standards provide that "[e]ach facility will have regularly scheduled times, known as sick call, when medical personnel will be available to see detainees who have requested medical services." For a facility of over 200 detainees, a minimum of five days per week is required.¹⁰¹ With respect to emergency care, the INS guidelines state that in situation in which a detention officer is uncertain of whether a detainee requires emergency medical care, the officer should immediately contact a health care provider or an on-duty supervisor.¹⁰²

The HPC Handbook advises detainees that:

Medical services are provided by CCA/HPC to ensure your health is adequately maintained and those problems that occur during your stay at this facility are resolved.¹⁰³

...

If you are experiencing medical problems, fill out a Sick Call Request form and place it in the sick call box located in the hallway outside your dorm. You will be called to the clinic and seen by the nursing staff. If the need exists, they will schedule you to see the facility doctor at the next sick call time.¹⁰⁴

...

If you are experiencing an emergency medical problem notify the officer stationed in your area. The nursing staff will be notified and appropriate action will be taken by them to resolve your medical problems. (Outside of the regular

⁹⁸ Ms. [REDACTED] notes.

⁹⁹ HPC Handbook, at 3.

¹⁰⁰ Detention Operation Manual, Health Services, Standard 2, Section I.

¹⁰¹ Detention Operation Manual, Health Services, Standard 2, Section F.

¹⁰² Detention Operation Manual, Health Services, Standard 2, Section H.

¹⁰³ HPC Handbook, at 3.

¹⁰⁴ HPC Handbook, at 4.

clinic hours, trained staff are available to administer first aid and life saving techniques.) Nursing staff and doctors are always available through on-call services.¹⁰⁵

The HPC Handbook outlines procedures for entry-level appraisal by a registered nurse including screening tuberculosis.¹⁰⁶ This is followed by a general physical examination by a physician for the purposes of identifying medical problems.¹⁰⁷

1. General Access to Healthcare

The CCA staff told our delegation that the HPC is not equipped for handicapped or seriously ill detainees; as a result, such detainees are transferred to other facilities.¹⁰⁸ Basic medical care is provided at the facility, however. The HPC has one health care service administrator ("HSA") and six nurses (two on each shift) on staff.¹⁰⁹ CCA contracts with a physician. According to CCA staff, the physician or his/her physician assistants are on-site for twenty-five hours each week (two days a week for the physician; three days a week for his/her assistants).¹¹⁰ In addition, there is one dentist (contracted through the INS) that comes to the facility twice a month, a psychiatrist (contracted through CCA) that goes to the facility on a case-by-case basis (although the HSA stated that the psychiatrist is on site once a week), and an x-ray technician (contracted through CCA) that goes to the facility periodically.¹¹¹

- Any detainee on medication is monitored on a monthly basis to make sure he is taking his medicine.
- All medicines are provided free of charge to the detainees. The CCA pays for most medicines without being directly reimbursed by the INS. The INS pays for all offsite medical treatments; pre-authorization for offsite specialist visits comes from the INS.
- The fact that they are HIV positive is kept confidential.¹¹²
- Our delegation interviewed two detainees who complained of requesting dental treatment, but had not yet received it after long periods of time.¹¹³ One detainee interviewed by our delegation stated that it usually takes two to three days to receive medical attention after submitting a request. The same detainee complained that he has

¹⁰⁵ HPC Handbook, at 4.

¹⁰⁶ HPC Handbook, at 3.

¹⁰⁷ HPC Handbook, at 3.

¹⁰⁸ Mr. [REDACTED] notes.

¹⁰⁹ Mr. [REDACTED] notes.

¹¹⁰ Mr. [REDACTED] notes.

¹¹¹ Mr. [REDACTED] notes.

¹¹² Mr. [REDACTED] notes.

¹¹³ Mr. [REDACTED] and Mr. [REDACTED] notes.

asked for x-rays on his shoulder because he thought he dislocated it three months ago playing basketball, but he has still not had x-rays taken.¹¹⁴

- o In the library, there were hepatitis, HIV, and diabetes booklets available but generally only in English. Some pamphlets concerning diabetes and AIDS were in Spanish.¹¹⁵

E. Detainee Classification

Warden [b6, b7C] readily admitted that the Houston Processing Center is not following the *INS Standards* regarding detainee classification. The detainees are classified into three levels, but they all wear the same color uniform (contrary to the *INS Standards*) and do not wear the classifying wristbands required by the *INS Standards*.¹¹⁶ Warden [b6, b7C] stated that it will cost CCA \$12,000 per year to buy the color-coded wristbands required by the *INS Standards*.

The *INS Standards* also require three different colors of uniforms to reflect their various classifications, plus one for the kitchen, but the facility currently has only yellow uniforms. While acknowledging that HPC does not meet the *INS Standards* with regard to uniforms, Warden [b6, b7C] stated that it would cost \$32,000 to purchase the initial uniforms required by the *INS Standards* and \$10,000 annually thereafter.¹¹⁷ Warden [b6, b7C] also stated it would initially cost CCA \$10,8500 (and then \$3,000 annually thereafter) to purchase the underwear and socks that are required to be provided by CCA per the *INS Standards*.¹¹⁸

Most of the detainees at the facility are classified as level 1 or 2 (the lower risk levels).¹¹⁹ According to CCA, they try to sort the detainees by level of criminal offense, but Warden [b6, b7C] stated that they do not have enough background information on the detainees to do so. Warden [b6, b7C] stated that CCA does not receive enough background information from the INS to properly segregate the detainees according to the *INS Standards*. According to Warden [b6, b7C] CCA has communicated this problem to the INS. CCA has apparently just recently started to receive copies of Form 213 from the INS for each detainee. According to Warden [b6, b7C] Form 213 shows only the crime of which the detainee was convicted, without any indication of the detainee's behavior during incarceration. In other words, Warden [b6, b7C] stated that CCA does not have the information necessary to determine if a detainee was a good or bad inmate before coming to the facility. Thus, Warden [b6, b7C] believes that he will need even more information on inmate background to properly segregate the detainees.¹²⁰

114 Mr. [b6] notes.

115 Mr. [b6] notes.

116 Detention Operations Manual, Detainee Services, Standard 3, Section III.A.

117 Mr. [b6] notes.

118 Mr. [b6] notes.

119 Mr. [b6] and Mr. [b6] notes.

120 Mr. [b6] notes.

The only other classification of detainees of which CCA staff informed our delegation has to do with long-term detainees. CCA tries to split up the long-term detainees to avoid hierarchy within potential gangs.¹²¹

F. Detainee Work Program

The *INS Standards* state that all facilities should provide detainees that are physically and mentally able the opportunity to work and earn money.¹²²

The HPC Handbook provides:

Detainees are asked to perform tasks associated with the daily operation of the facility. Such tasks may include general sanitation, working in the Food Service, Laundry and Maintenance departments as well as other tasks. Under no circumstances will you be forced to take part in the work program.¹²³ All work outside the dormitory is voluntary and monetary compensation is made at the rate of \$1.00 per day not to exceed \$7.00 per week. Once approved for a job, you will receive a pay slip that must be signed by the supervisor that you work for. These pay slips are to be turned in weekly by 8:00 am on Mondays.

...

Your eligibility to work will be determined by the INS and CCA/HPC. If you desire to be placed on a work program, send a Resident Information Request to the responsible Shift Supervisor or Department Head who will forward your name for consideration. Please remember that there are not enough job assignments for each person in the building, therefore, we ask for your patience and cooperation.

CCA personnel reported that everyone is allowed to work eight hours per day for \$1.00 per day. There are 150 positions for detainees available to work, which include administration, clinic, and maintenance positions. INS must approve detainees for work out of the secure area.¹²⁴

G. Grievance and Disciplinary Procedures

The *INS Standards* require that every facility develop and implement standard operating procedures for handling detainee grievances and encourage that the facility initially seek to resolve grievances informally before having to engage in a more formalized and written procedure.¹²⁵

¹²¹ Mr. [b6] notes.

¹²² Detention Operations Manual, Detainee Services, Standard 17, Sections I and III.A.

¹²³ Note, however, that the HPC Handbook also provides (at 9) that "refusal to work," which is defined as refusal to perform an assigned duty is a major offense.

¹²⁴ Mr. [b6] notes.

¹²⁵ Detention Operations Manual, Detainee Services, Standard 8, Sections I and III.A.

The HPC Handbook provides both formal and informal grievance procedures.¹²⁶ Informal grievances are made on the "Request for Information" form and submitted in the box marked "MAIL" in each dormitory, which is emptied each day.¹²⁷ Per the HPC Handbook, CCA attempts to respond to informal grievances within twenty-four hours.¹²⁸ Formal grievances are made on the "Grievance Form" and submitted in the box marked "GRIEVANCE" in each dormitory.¹²⁹ The Facility Grievance Officer shall, within fifteen days of receipt of any grievance, conduct an investigation and render a written decision to the detainee.¹³⁰ Detainees may appeal to the Warden if dissatisfied with decisions rendered under either the formal or informal grievance procedures.¹³¹

The HPC Handbook states:

It is the policy of CCA/HPC to encourage informal resolution of complaints at the lowest possible level since grievances should be, whenever possible, resolved through direct contact with staff responsible for the particular problem area and with two-way communication encouraged between staff and detainees. However, all detainees shall have access to formal grievance procedures any time the informal process has not provided successful resolution of the complaint. Neither employees nor detainees shall be subject to retaliation, reprisal, harassment, or discipline for the use or participation in the Grievance Procedure. Any allegations of this nature will be thoroughly investigated by the Facility Warden and reviewed by the Corporate Office.¹³²

According to Warden [b6, b7C] and Asst. Warden [b6, b7C] there has been no history of facility staff retaliating against detainees for submitting grievances.³³

Warden [b6, b7C] reported that approximately twenty grievances were filed within the last year and of those only about two were appealed to him. According to Warden [b6, b7C] and Warden [b6, b7C] CCA succeeds in resolving most grievances on an informal basis simply by having open communication with the detainees. Note, however, that one detainee interviewed by our delegation indicated that he believes only minor grievances are addressed by CCA and that more important grievances are not addressed. This inmate did not provide any specific examples, however.¹³⁴

Detainees who are sentenced to segregation (solitary confinement) have a disciplinary hearing within three days from the segregation. There is a segregation hearing in order to determine if a detainee should be released. If a detainee is sentenced to a definite time period of

¹²⁶ HPC Handbook, at 11.

¹²⁷ HPC Handbook, at 11.

¹²⁸ HPC Handbook, at 11.

¹²⁹ HPC Handbook, at 11.

¹³⁰ HPC Handbook, at 11.

¹³¹ HPC Handbook, at 11.

¹³² HPC Handbook, at 11.

¹³³ Mr. [b6] notes.

¹³⁴ Mr. [b6] notes.

segregation, there is still a segregation hearing just to approve his release back into the general population. Warden [b6, b7C] reported that detainees are allowed to call witnesses to their disciplinary or segregation hearings.¹³⁵ One detainee interviewed by our delegation indicated he had not been treated well in segregation and that he was not given toiletries during such time.¹³⁶

According to the wardens, the facility only uses physical restraints when necessary on a case-by-case basis, depending on the detainee. One detainee interviewed by our delegation, however, indicated that detainees are shackled when they are first brought to the dormitory areas.¹³⁷

Warden [b6, b7C] confirmed in the interview that the HPC enforces the *INS Standards* rule that a detainee may file a formal grievance, no later than five days after the event or after the unsuccessful conclusion of an informal grievance.¹³⁸ However, the timetable in the HPC Handbook is contradictory and confusing as to whether the filing of an informal grievance tolls the time for filing a "Grievance Form."

The formal process is available "any time the informal process has not provided successful resolution of the complaint." However, the Grievance Form to be used for the formal process "must be completed and filed within seven (7) days of the alleged incident." The strict interpretation is that filing an informal grievance does not toll the seven-day cutoff in the HPC Handbook. Therefore, a detainee who delays the start of the informal process could be cut off from filing a Grievance Form while waiting for the informal process to conclude. This is troubling because the HPC Handbook also states that "Grievances filed improperly will be returned without review."¹³⁹ The next version of the HPC Handbook should clarify whether filing a "Request for Information Form" tolls the time to file the "Grievance Form."

The HPC Handbook's description of the formal and informal appeals process is also confusing. It appears that an appeal from the informal process is to the "Warden" and an appeal from the formal process is to the "Facility Warden." Under the heading "Informal Process," the HPC Handbook says that a detainee may appeal to the "Warden" "by checking the appropriate box on the same form and placing it back in the box." Under the formal process, it says the detainee is to submit any appeals to the "Facility Warden" within five (5) days ...by [completing] the section on the Grievance Form described as "State Reason(s) for Appeal."¹⁴⁰

H. INS Presence

Although there is no daily INS presence in the detention area, INS has an office at the HPC building with its own access. Investigators and/or deportation officers man the office.

¹³⁵ Mr. [b6] notes.

¹³⁶ Mr. [b6] notes.

¹³⁷ Mr. [b6] notes.

¹³⁸ Mr. [b6] notes.

¹³⁹ HPC Handbook at p. 11.

¹⁴⁰ HPC Handbook at p. 11.

According to Mr. [b6, b7C] there are twenty-six agents that visit that facility.¹⁴¹ A supervisor deportation officer is the officer in charge at the office. Detainees communicate with INS in writing through letters or on forms provided to them in the dormitories.¹⁴² These forms are picked up daily by CCA staff and delivered to the INS officers.

V. Conclusion

From the outset, Warden [b6, b7C] acknowledged to our delegation that HPC was not completely following the new *INS Standards*. He and other members of the CCA staff attributed this lack of compliance to the fact that the INS and CCA have not negotiated a new contract that includes implementation of these new *INS Standards*. We had no ability to verify this apparently reasonable explanation, and also had no reason to doubt that this was the reason for the HPC's lack of compliance with the *INS Standards*.

Despite this acknowledged shortcoming, our overall impression of the facility's management is that they were doing a competent job and appeared to be in substantial compliance with the new standards of interest to our delegation.¹⁴³ The facility provides recreation for the detainees.¹⁴⁴ The medical staff appeared to be meeting the detainees' overall medical needs.¹⁴⁵ The detainees have access to their families and legal representatives through telephone and contact visitation privileges.¹⁴⁶ And, Warden [b6, b7C] and his top assistants have extensive experience in corrections management that showed in their attitude towards the detainees while we were there.

According to [b6, b7C] the staff goes through pre-service training, on the job training with other employees and forty hours of in-service training annually. There have been no major staff grievances or problems at the facility.¹⁴⁷

There were some obvious problems at the facility like the lack of adequate space and legal materials in the library. We also had concerns about the detainees' ability to freely communicate through the telephone system, as discussed above. However, the main problem to which our delegation was exposed was the detainees' interaction or lack of interaction with the INS. According to Warden [b6, b7C] and Assistant Warden [b6, b7C] a majority of the detainees' complaints are about the delays in the processing of their cases.¹⁴⁸ The detainees who we interviewed expressed frustration about not knowing what was happening with their case or when they were being deported.¹⁴⁹

¹⁴¹ Mr. [b6] notes.

¹⁴² Mr. [b6] notes.

¹⁴³ Delegation's notes.

¹⁴⁴ Delegation's notes.

¹⁴⁵ Interview with Ms. [b6] LVN, Health Services Administrator at the Facility.

¹⁴⁶ Delegation's notes.

¹⁴⁷ Mr. [b6] notes.

¹⁴⁸ Mr. [b6] notes.

¹⁴⁹ Interviews with detainees Mr. [b6, b7C] Mr. [b6, b7C] [b6, b7C] and Mr. [b6, b7C]