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February 1, 2007

Timothy Perry
Acting Chief, Detention Acquisition and Support Branch
ICE Office of Detention and Removal
U.S. Department of Homeland Security
801 "I" Street, Suite 980
Washington, D.C. 20536

RE: Detainee Transfer Standard

Dear Mr. Perry:

It has come to our attention, through the South Texas Pro Bono Asylum Representation Project (ProBAR), that over the past few months, Immigration & Customs Enforcement has been regularly transferring hundreds of immigration detainees from east coast facilities to the Port Isabel Detention Center (PIDC) in South Texas.¹ According to ProBAR, these individuals often have lawyers and family members in the states where they are originally apprehended. In addition, facilities on the east coast are located closer to metropolitan areas where legal representation is more widely available. As you may be aware, legal services for immigrant detainees in South Texas are scarce; ProBAR is essentially the only organization regularly providing pro bono assistance to detainees at PIDC. There are 3,200 beds available for adult detainees between PIDC and the Willacy County Processing Center in Raymondville, Texas, and ProBAR and the local bar have been overwhelmed with requests for representation.

According to ICE's National Detainee Transfer Standard, ICE must take into account whether a detainee is represented when deciding whether to transfer him or her. One of the factors the Field Office Director must consider is "whether the attorney of record is located within reasonable driving distance of the detention facility."² As noted above, detainees in remote areas have significant difficulty finding counsel. Transfers of detainees from east coast facilities to PIDC have therefore resulted in detainees' inability to maintain legal representation, which is one of the

¹ Locations include New York, Massachusetts, Virginia, and Florida.

² <http://www.ice.gov/doclib/partners/dro/opsmanual/DetTransStdfinal.pdf>.

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problems that the Transfer Standard sought to prevent. Detainees can no longer meet with their attorneys, and the local Immigration Judges regularly deny motions by counsel to appear telephonically for removal hearings. Existing counsel must either find local counsel to make appearances, travel to South Texas, or withdraw from their clients' cases. ProBAR and the local bar are only able to serve a fraction of the high volume of detainees at PIDC in need of assistance when their original attorneys are forced to withdraw.

The ABA opposes the involuntary transfer of detained immigrants and asylum seekers when the transfer impedes an existing attorney-client relationship and makes it difficult to obtain new representation. In addition, as immigration detention continues to expand at a rapid pace, there is an increasing need to ensure that facilities are not built or contracted within remote areas where counsel is largely unavailable. While we understand that several factors inform individual decisions on transfers, in accordance with the Transfer Standard, we urge you to more carefully and thoroughly consider the impact on detainees' access to counsel when making these determinations.

Thank you for your time and attention to this matter.

Sincerely,


Robert D. Evans

cc: Walter LeRoy, ICE Office of Detention and Removal