

October 24, 2007

Julie L. Myers
Assistant Secretary
U.S. Immigration and Customs Enforcement
Department of Homeland Security
425 I Street, NW
Washington, DC 20536

Re: Detainee Transfers

Dear Assistant Secretary Myers:

On behalf of the American Bar Association, I write to reiterate the importance of ICE ensuring full and timely compliance with the Detainee Transfer detention standard. We understand that detainees from San Pedro Processing Center recently were transferred to other facilities and, according to reports we have received, many of the detainees' attorneys did not receive notification as required under the standard. Some attorneys apparently only learned of the transfers when they arrived at court for scheduled hearings or when they attempted to contact their clients at the facility. In addition, we understand that there is a possibility that detainees may be transferred from San Diego Contract Detention Facility because of fires in the region. In the case of any transfer, it is essential that the detention standards are followed to ensure that legal access is not impaired.

While it may be necessary to transfer detainees in appropriate circumstances, including when conditions are poor or unsafe, or when a facility does not comply with the ICE detention standards, we urge that the procedures required by the standards be followed. The Detainee Transfer standard requires ICE to notify the detainee and his or her representative of the transfer and to provide both parties with written notice of the name, address, and telephone number of the receiving facility. Indigent detainees are entitled to make a domestic telephone call at government expense, and other non-indigent detainees may call at their own expense upon arrival at their final destination. Detainee A-files are to be put in good order prior to transfer, and include the completed Detainee Transfer Checklist "to ensure that all procedures are completed." And medical needs must be assessed and records transferred with the detainees.

The ICE detention standards, including the Detainee Transfer standard, are the result of negotiations between the ABA, the Department of Justice, the former INS and advocacy organizations. As a key stakeholder in developing the standards, the ABA is committed to their full and effective implementation. The

DEPUTY DIRECTOR
Denise A. Cardman
(202) 662-1761
cardmand@staff.abanet.org

SENIOR LEGISLATIVE COUNSEL
R. Larson Frisby
(202) 662-1098
frisbyr@staff.abanet.org

Lillian B. Gaskin
(202) 662-1768
gaskinl@staff.abanet.org

LEGISLATIVE COUNSEL
Kristi Gaines
(202) 662-1763
gainesk@staff.abanet.org

Kenneth J. Goldsmith
(202) 662-1789
goldsmithk@staff.abanet.org

Kerry M. Lawrence
(202) 662-1766
lawrenck@staff.abanet.org

Ellen McBarnette
(202) 662-1767
mcbarnee@staff.abanet.org

E. Bruce Nicholson
(202) 662-1769
nicholsonb@staff.abanet.org

DIRECTOR GRASSROOTS
OPERATIONS/LEGISLATIVE COUNSEL
Julie M. Strandlie
(202) 662-1764
strandlj@staff.abanet.org

INTELLECTUAL PROPERTY
LAW CONSULTANT
Hayden Gregory
(202) 662-1772
gregoryh@staff.abanet.org

STATE LEGISLATIVE COUNSEL
Rita C. Aguilar
(202) 662-1780
aguilarr@staff.abanet.org

EXECUTIVE ASSISTANT
Julie Pasatiempo
(202) 662-1776
jpasatiempo@staff.abanet.org

STAFF DIRECTOR FOR
INFORMATION SERVICES
Sharon Greene
(202) 662-1014
greenes@staff.abanet.org

EDITOR WASHINGTON LETTER
Rhonda J. McMillion
(202) 662-1017

ABA opposes transfer of detainees to remote facilities where immigration legal assistance is generally not available. The Detainee Transfer standard reflects this concern in part, providing that detainees should not be transferred beyond a reasonable distance from their attorneys, and outlining procedures to ensure that detainees and counsel receive proper notice of the transfer. The ABA urges that proper procedures be followed in order to ensure that immigrants and asylum seekers in detention are not disadvantaged by their transfer.

In the case of detainees already transferred from San Pedro, we urge ICE to ensure that any attorneys that have not received the required notification are immediately contacted with the appropriate information. In the case of the San Diego Contract Detention Facility, we urge ICE to ensure that appropriate advance preparation is made so that all procedures under the Detainee Transfer standard are fully implemented on a timely basis in the event that it becomes necessary to transfer detainees quickly due to the dangerous conditions in the region.

We appreciate your consideration of this important issue.

Sincerely,

A handwritten signature in cursive script that reads "Denise A. Cardman". The signature is written in black ink and is positioned to the left of a vertical red line.

Denise A. Cardman
Acting Director

cc: John P. Torres, Director, Office of Detention and Removal
Mary Loiselle, Acting Deputy Assistant Director, Detention
Management Division, Office of Detention and Removal