
Krome's Invisible Prisoners: Cycles of Abuse and Neglect

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The Florida Immigrant Advocacy Center, Inc. (FIAC) is a non-profit organization which promotes and protects the basic human rights of immigrants of all nationalities. FIAC is funded in large part by the Florida Bar Foundation and Ford Foundation. In recent months FIAC has been aware of serious problems confronting Krome detainees. The increasing severity of these problems has prompted FIAC to write this report.

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“The INS has made clear its profound commitment to hold alien detainees only in conditions that are humane, safe and secure”. . . Inhumane actions by personnel responsible for the detainees of aliens, or actions which are clearly detrimental to the welfare, safety, and security of detainees, are insupportable and totally unacceptable to the INS.”

*- Excerpt from INS Interim Report on the
Elizabeth, New Jersey Contract Detention Facility
Operated by ESMOR Inc., July 20, 1995*

“By early June 1995, the steady increase in Krome’s detained population, and particularly the female population, had resulted in a warning from the Public Health Service that the overcrowded conditions were causing urgent health problems at the facility and were interfering with the functioning of the medical clinic.

* * *

To summarize, the weight of the substantial credible evidence plainly establishes that INS managers transferred 45 aliens out of Krome just before the Task Force’s visit in order to shield the Delegation from the true conditions at the camp. Substantial credible evidence exists that the decision to move aliens out of Krome was approved at the Regional level. . . . Once the decision had been made to engage in the subterfuge, no one at the Regional or District level appears to have openly questioned the propriety of this move. A collective effort seems to have gone into generating and perpetuating false information about the alien transfers from Krome.

* * *

Moreover, the wholesale violation of policies and practices then in effect in the Miami District (and which were largely instituted in accordance with instructions from INS Headquarters) confirms that the aliens were released in a rush to reduce Krome’s population before the Task Force’s arrival to prevent the Delegation from seeing the true conditions that existed at Krome.”

*- Excerpts from the Office of the Inspector General’s report on
Alleged Deception of Congress: The Congressional Task Force
on Immigration Reform’s Fact-finding Visit to the
Miami District of INS in June 1995.*

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Overview

For years, detainees, their family members, *pro bono* organizations, and attorneys in private practice have complained about conditions of confinement at Krome Service Processing Center, Miami, Florida. Their most recent allegations include severe overcrowding, prolonged detention and denial of parole, impediments to legal representation, verbal and physical abuse, lack of a grievance procedure, untrained and unqualified detention officers, improper use of segregation, lack of proper medical care, unhygienic living conditions, transfers to county jails, denial of access to journalists and visitors, and discriminatory treatment of certain nationalities. The Immigration and Naturalization Service (INS), which operates Krome, has consistently denied and failed to investigate the allegations.

In June 1996 the Office of the Inspector General (OIG), Department of Justice, issued a report containing the results of its investigation of INS misconduct during the Miami visit of a Congressional Task Force on Immigration Reform in June 1995.¹ The investigation was the result of a complaint by 47 Miami INS employees, most if not all of them inspectors at the Miami International Airport, that the INS tried to deceive the delegation that the INS Miami District was in good order. The report concluded that the INS tried to prevent the delegation from seeing “true conditions” at Krome, which was then so overcrowded that conditions there presented a health and safety hazard. The INS carried out this subterfuge by temporarily transferring detainees to other facilities or by paroling them. INS employees then engaged in a collective effort to generate and perpetuate false information about what they had done.² The report also concluded that the INS tried to make the Inspections area of the Airport appear efficiently managed (an appearance which “did not comport with reality at that time”) by making primary inspection appear fully staffed, by removing aliens from the normally overcrowded and dirty detention cells, and by misrepresenting that only criminal aliens were held in the detention cells.³ As a result of the OIG investigation and report, the INS transferred the Eastern Regional Director, the Deputy Eastern Regional Director, the Miami District Director and the former Miami Deputy District Director, and the OIG has recommended the suspension, demotion or dismissal of these and 9 others.

¹Michael Bromwich, Inspector General, “Alleged Deception of Congress: The Congressional Task Force on Immigration Reform’s Fact-finding Visit to the Miami District of INS in June 1995,” *Office of the Inspector General*, June 1996 (hereafter “OIG report”).

²*Id.* at 69, 103-104.

³*Id.* at 129-30, 139-40.

The OIG report is significant because it details the ability of the INS to abuse its vast authority to detain, transfer and release detainees; the degree to which conditions such as the massive overcrowding at Krome could remain hidden; and the INS's inclination and ability to mislead the public about true conditions and to hide its actions. But the report only hints at the big picture of longstanding problems at Krome which have regularly been ignored by the INS and the Justice Department. The answer to allegations of misconduct and a cover-up cannot be a quick fix of blaming a few INS employees or increased detention of immigrants. The allegations do, however, prove the need for consistent and publicly announced standards regarding Krome's operations and for an independent oversight committee to investigate and supervise INS operations at Krome.⁴

The allegations contained in our report are just the most recent in a long and repetitious litany of allegations concerning Krome. In 1990 the FBI, under the direction of the Civil Rights Division of the Justice Department, initiated an investigation of criminal misconduct by Krome guards. In March of 1991 attorneys at the Haitian Refugee Center were informed by Justice Department officials that the FBI investigation was completed, but that it could take up to five years to reach any conclusions. To date, we have been unable to obtain the results of the 1990 investigation.

In April 1991 two human rights organizations -- the Minnesota Lawyers International Human Rights Committee and Physicians for Human Rights -- issued a report concerning Krome entitled Hidden from View: Human Rights Conditions in the Krome Detention Center which documented lack of access by outside groups, prejudice of rights under U.S. law including the right to counsel, serious incidents of physical and sexual abuse of detainees, improper detention of minors, arbitrary punishments and failure to follow existing internal grievance and disciplinary procedures, improper use of solitary confinement and inadequate conditions of solitary confinement, limited access to toilets and showers, overcrowding, improper transfers, and the need for additional training of deportation officers.

In June of 1991 the Haitian Refugee Center issued a report regarding Krome ("Conditions at Krome North Service Processing Center"), in response to a wide ranging pattern of violations of the human rights of detainees at Krome.

In June 1991 Chinese detainees at Krome issued a letter protesting discrimination and abuse at Krome. In August 1991 at least 180 detainees, representing over twenty different nationalities, engaged in a hunger strike, protesting unfair parole policies and abuses by detention officers. In June 1992, at least 185 Haitians detained at Krome engaged in a hunger strike to protest the death of a detainee, complaining that they had been beaten, harassed, and deprived of medical care, their Bibles and contact with their lawyers and relatives. In January 1993 at least 150 detainees staged a hunger strike, protesting mistreatment and discrimination at Krome. In 1994 hundreds of detainees were housed in tents at Krome, leading to widespread complaints of inadequate and oppressive living conditions.

⁴Detention conditions in the secondary inspection area at Miami International Airport are not the subject of this report. But the OIG report raises very troubling questions about the practice of detaining men, women and children in crowded, dirty cells in that area, which is off-limits to attorneys, family members, or any outside scrutiny. It should also be noted that the airport inspections personnel who complained about the INS's attempts to hide true conditions at Krome had apparently not previously complained about or made public those same conditions.

A Justice Department news release dated January 4, 1996 announced that a Krome officer had pled guilty to one felony count of depriving a detainee of his civil rights. The Krome officer placed the detainee in a small cell, and kicked and punched him multiple times about the head and body. The officer tried to cover up what he had done by having other guards punch him in the chest and photograph the resulting injury to support a false report claiming the detainee was the aggressor. He also tried to persuade a witness to support his false report and tried to get the FBI to begin an investigation of the detainee.

The latest complaints about the treatment of Krome detainees were outlined in a letter sent to the INS and local Miami media on January 29, 1996. One hundred fifty-seven detainees signed the letter which complained of severe overcrowding, lack of access to attorneys, lack of proper medical care, unhygienic living conditions, retaliation against detainees who complain of abusive treatment, harassment and verbal abuse by guards, and prolonged detention at Krome.

Some of the detainees interviewed were afraid to provide sworn statements because they feared retaliation. This seems justified, given that certain detainees who sent a letter to the Miami Herald complaining of "Atrocious Conditions Under Which Inmates Are Living" were shortly thereafter transferred to county jails and/or placed in administrative segregation.

Inadequate access to attorneys or to a law library, unusually long periods of confinement, arbitrary parole decisions, and transfers to remote facilities are now part of Krome's normal operations. The INS has failed to implement rational release programs which would alleviate these problems. For example, the Asylum Pre-Screening Program (APSO), designed to identify asylum applicants with credible claims for possible parole, has not been implemented at Krome for more than three years. When Florida Immigrant Advocacy Center (FIAC) attorneys visited Krome earlier this year, most of the detainees they spoke with had been confined for about one year. Recently, a Nigerian was paroled after 13 months of detention. Attorneys representing detainees at Krome have complained that in recent months the parole policy has become much more restrictive, and detainees are now far more likely to be indefinitely detained.

INS's refusal to respond to the concerns of human rights organizations or to grant journalists and others access to Krome has prevented outside scrutiny of the facility. In February 1996 the Refugee Coordinator of Amnesty International wrote to the Miami District Director expressing concerns about detention of asylum seekers, overcrowding at Krome, lack of access by the media, and retaliation against a detainee. He did not receive an answer.

In late January 1996 District Director Walter D. Cadman turned down a request by a group of 11 Miami journalists to tour Krome, on the basis that nothing unusual had happened to warrant such coverage. The group, which included journalists from the Washington Post, the Los Angeles Times, the Miami Herald, Reuters News Agency, and Miami's New Times appealed the decision to INS Commissioner Doris Meissner. On April 8 the INS finally granted a group of 5 journalists a sanitized tour of Krome, but none of the journalists who requested a tour was included.

This is not the first time outside groups have been denied access to Krome. In 1991, the Minnesota Lawyers International Human Rights Committee and Physicians for Human Rights criticized the INS for giving them permission to conduct private interviews with detainees at Krome and then revoking that permission after the groups arrived in Miami. Historically, the INS has denied the press access to Krome whenever significant events, such as hunger strikes, occur there.

Not only is independent review of Krome restricted, but within Krome detainees have no meaningful way to express their grievances. Krome officials have told us in the past that a grievance procedure exists to effectively address the detainee's complaints, but detainees are not aware of any such procedure. They also fear retaliation if they do complain. We have long complained about the lack of accountability of officials responsible for overseeing the care of detainees at Krome. Attempts by HRC attorneys in the early 1990s to seek meaningful review of detainees' complaints were unsuccessful. INS District Director Walter Cadman recently promised to establish a meaningful grievance procedure within Krome and to work on establishing a Citizens' Advisory Board to review detainees' allegations of mistreatment. However, he was transferred to a non-supervisory job outside Florida after the OIG report was issued, "pending a Justice Department review of possible disciplinary action and criminal prosecution."⁵ FIAC intends to forward a copy of its completed Krome report to members of the INS's Citizens' Advisory Panel.

The situation at Krome may soon become more critical. The INS has announced its intention to more than triple Krome's capacity. Moreover, with the implementation of an Immigration Court at the Miami International Airport, those who do not accept an immediate exclusion order will likely be detained indefinitely at Krome or in contract facilities.

It is important to note that over the years there have been serious conflicts among INS officials who administer Krome. The Assistant District Director for Detention and Deportation has testified in deposition that Krome administrators did not give him information about what was happening at Krome and did not follow his instructions, and that the then-Acting District Director prevented him from carrying out his responsibilities at Krome.⁶ The OIG report similarly details allegations of a Krome administrator trying to "set-up" the same Assistant District Director⁷ and reports inconsistent accounts of events at Krome. The conflicts between officials have undoubtedly played a role in Krome's problems.

FIAC believes that conditions at Krome warrant the kind of investigation conducted of the ESMOR contract detention facility located in Elizabeth, New Jersey. On July 20, 1995, the INS Headquarters Detention and Deportation Program (HQDDP) issued its Interim Report Executive Summary with respect to a program review and investigation conducted of the ESMOR facility. The review was ordered by INS Commissioner Doris Meissner in response to complaints and allegations of abuse and alleged inappropriate conditions of confinement.

The ESMOR Report's recommendations are equally applicable to Krome. The Report called for a grievance policy to ensure that complaints concerning treatment of detainees and/or conditions of confinement are investigated and resolved; a system to deal with employee behavioral problems; adequate training and supervision of employees; a system to monitor detainee complaints about food, determine if the complaints have merit and respond to them; posting of visitation policy for

⁵Eric Schmitt, "How U.S. Immigration Officials Deceived a Group of Lawmakers: Justice Dept. Report Details on Elaborate Ruse," The New York Times, June 29, 1996 (see Appendix B).

⁶Deposition of Kenneth Powers, Assistant District Director for Detention and Deportation, HRC v. Reno, U.S.D.C., S.D. Fl., Docket No. 93-0080-CIV-DAVIS, taken July 30, 1993 (hereafter "Deposition of Kenneth Powers"), at 8-31.

⁷OIG report, *supra*, at 50.

attorneys, notification to them by mail of changes in the policy, and a method of scheduling attorney visits; compliance with American Correctional Association standards; tighter controls over processing, storage and accounting of personal property; close adherence to the 72 hour limitation on the detention of minors; the formation of a "Community Working Group" composed of the INS, lawyers and community groups; easier access to the facility for concerned parties in the community; a system to ensure that counsel for detainees are notified of the transfer of their clients, when possible, before the transfer; easy access to a current list of *pro bono* legal representatives; the opportunity to make direct (non-collect) telephone calls to *pro bono* legal representatives; a *pro bono* program for representation of detainees; and greater implementation of the APSO program.

Despite the INS's own condemnation of the ESMOR facility, few changes resulted. No INS employees have been disciplined, no criminal charges have been filed, ESMOR Correctional Services was permitted to sell its contract to another company, and ESMOR continues to operate an INS detention facility in Seattle.⁸

The cycle of repeated complaints about Krome proves the need for Krome and other INS detention facilities to operate under clear, consistently applied guidelines. Standards promulgated by the American Correctional Association⁹ provide useful information for immigration detention facilities; however, they cannot be accepted wholesale because they do not take into account that the detainees at Krome are neither accused of nor convicted of a crime, and that asylum seekers and others at Krome have special needs that are not encountered in jails holding people accused or convicted of criminal violations. The issuance of formal rules for the operation of detention facilities, with adequate opportunity for the public to comment, is necessary to control the operation of facilities such as Krome.

Many Krome employees are competent and dedicated. But they must work in accordance with irrational and shifting policies, and INS culture prevents them from contesting or making public the reality of Krome. The INS has little apparent capacity to police itself. The June 1996 OIG report makes clear the difficulty of tracking INS activities at Krome because of the inadequacy of INS records and the INS's own efforts to hide what it has done. Only outside, independent scrutiny of conditions at Krome will ensure that the "true conditions" at Krome are made public, and that the cycle of abuse and neglect is broken.

Description of Facility and Its Population: Overcrowding

The Krome detention center is a minimum-security facility located on the edge of the Everglades, about 23 miles from downtown Miami. According to the General Accounting Office, Krome is an

⁸Matthew Purdy and Celia W. Dugger, "Legacy of Immigrants' Uprising: New Jail Operator, Little Change," The New York Times, July 7, 1996; Celia Dugger, "In Pursuit of Freedom, Finding Prison Bars," The New York Times, July 9, 1996 (see Appendix B).

⁹American Correctional Association, Standards for Adult Local Detention Facilities, 3rd Edition, March 1991 (hereafter ACA Standards) sets forth standards for facilities that most closely approximate Krome.

"isolated" facility.¹⁰ It was opened as a temporary processing facility in 1980 to handle the influx of Cuban refugees of the Mariel boatlift and Haitian boat refugees. It became a housing facility in 1981, when INS instituted a policy of detention of Haitian asylum seekers. Currently it is one of the several "Service Processing Centers" in the country run by INS. The OIG describes it as a "long-term detention facility."¹¹ INS officers practice shooting at a nearby target range, and the sound of gunfire is easily heard by detainees and visitors.

Krome's population has increased and decreased over the years in response to refugee flows and the tightening and loosening of parole policies. Stated limits on Krome's capacity are apparently meaningless. The population of Krome has changed without regard for accepted correctional standards and the capacity of the INS to safely house any particular number of detainees. According to the OIG, Krome's "rated" capacity -- the number of detainees who could be housed inside Krome in accordance with American Correctional Association standards -- was 226. The INS believes that Krome could hold up to 1,000 detainees by using tents.¹²

Male detainees are currently housed in Building 11, which housed female detainees until a fire in 1992 destroyed the men's dormitory. According to the OIG report, the INS prefers to limit the population of Building 11 to 170. However, the actual number held there is often much greater:

The male dormitory at Krome (Building 11), which houses the majority of the facility's alien male population, was built to hold 105 detainees. By using bunk beds, this number could be doubled to 210, with another 16 added by placing bunk beds and cots in the adjacent recreational area. Up to 300 male detainees could be housed by placing cots in the center of the building (where a security booth has been erected) and bunk beds adjacent to all available wall space. During tropical storm Gordon, 455 male detainees were housed inside the male dormitory because of management's concern that the outdoor tents in which the aliens were living would not survive the storm. However, when the number of male detainees in the dormitory exceeds 200, the air conditioning and heating systems begin to fail.¹³ [footnotes omitted]

Since the 1992 fire, women detainees have been housed within two small rooms in the Public Health Service building. According to the OIG, one of the rooms was built to house 18 detainees and the other 9. When bunk beds are used, the space holds 54 female detainees. To house additional women inside, cots can be placed in the working area of the PHS lobby and removed each morning. No more than 100 women can be fit indoors, but the INS considers any number over 54 to be "overcrowded."¹⁴

¹⁰United States General Accounting Office, Immigration Control. Immigration Policies Affect INS Detention Efforts, at 46, June 1992.

¹¹OIG report, *supra*, at 25.

¹²*Id.* at 30.

¹³*Id.* at 27.

¹⁴*Id.* at 28.

Detainees have periodically been housed in tents. This occurred in 1994, when large numbers of Cuban and Haitian detainees were held at Krome. As many as 700 detainees were held at Krome in 1994.¹⁵

According to the OIG, beginning in March 1994 the INS began to house large numbers of detainees with criminal convictions at Krome. By the time of the delegation's visit, about half the population of Krome had a criminal history. Detainees with serious criminal convictions were regularly mixed with the general population, including areas where minors were housed. As of April 24, 1995, 64 minors were held at Krome. 22 of them were minor males housed in building 11 with the adults, along with all felons and aggravated felons.¹⁶

According to the OIG, as of June 9, 1995, Krome's population was 407. Krome's population increase was the result of a deliberate policy to detain Cubans arriving in the U.S. from third-countries. 107 women were in the PHS building; of these, 55 were sleeping on cots in the small PHS lobby.¹⁷

Krome was so overcrowded in June 1995 that Dr. Ada Rivera, the chief of the Public Health Service Clinic at Krome, warned of "serious health consequences" and said that urgent measures were needed to "prevent any potential epidemics."¹⁸ Valerie Blake, then Deputy District Director, found Krome "out of control."¹⁹

The INS's response to the overcrowding and threats to health and security was not to develop rational detention and parole policies. Instead, it chose to hide overcrowding at Krome. According to the OIG report, INS officials in Miami tried to deceive the task force about overcrowded conditions at Krome by releasing 58 detainees, several of whom had criminal records, without medical screening, and by sending 45 other detainees (19 of whom were returned to Krome several days later) to a county jail in northwestern Florida or to an INS facility in New Orleans.²⁰

Even after the OIG investigation was undertaken, Krome's population remained high and the facility overcrowded. 157 detainees of all nationalities submitted a grievance letter, dated January 29, 1996, to the Chief Director of the Krome Detention Center, which reported:

There are no urinals (for men) as the building that houses us was built to accommodate approximately one hundred and thirty (130) women, and now holds over three hundred (300) men. Some of which, have to sleep in hallways, walkways and entrance ways, on cots (not

¹⁵*Id.* at 30.

¹⁶*Id.* at 28-29.

¹⁷*Id.* at 31.

¹⁸*Id.* at 32.

¹⁹*Id.* at 43.

²⁰*Id.* at 57-62, 97.

beds), therefore creating a hazard if there was ever to be an emergency, fire or other, it would cause a real disaster. . . ²¹

According to the Miami Herald, in February 1996, 355 detainees were at Krome, 57% over its official capacity, and Krome's population had been running at well over 300 for months.²²

According to the February 6, 1996 letter written by a detainee at Krome:

We are being housed in a very poor state. We have 83 people being housed in A dorm where I am, and this is a 400 x 950 foot room. It is so crammed up, that if a man sleeping on the bed next to you (if you are lucky to get a bed), coughs, he will be doing so right in your face. The place is very susceptible to fire hazard. It is very unhygienic; over 250 people are made to share 12 toilets and showers. A and B dorm are the same size and they are the two biggest dorms. C and D dorms are 1/4 the size of A dorm and the day room (recreation room) is just about the same size as A dorm.

People are made to sleep in hall ways and corridors. The hygiene and overcrowding, constitutes a lot to the health problems of most detainees.²³

Krome is an overcrowded, stark jail²⁴, with few organized activities, and little for detainees to do. Neither its physical plan nor its programs are designed for long-term detention. Cheryl Little, Executive Director of Florida Immigrant Advocacy Center, toured Krome on April 5, 1996, at the invitation of District Director Cadman. She described the facility as follows:

* * *

2. The population at Krome on the day I visited was about 300, of which 40 were women. 41 nationalities were represented there.
3. Despite statements by INS officials that the Krome population had recently decreased, I was struck by how crowded the men's and women's dorms seemed. Bunk beds were narrow and only a few feet apart. I saw no place to keep personal belongings. Neither the men, women, or minors had any pillows. The overall stark conditions of the housing seemed to exacerbate the overcrowding. While INS officials claim that Krome does not resemble a jail, this was not my impression. The concertina wire, detainee uniforms, barrenness of the facilities, and ever-present guards, make clear this is a jail. Many of the detainees, both male and female, were lying on their beds during my visit, which took place in the daytime, and seemed bored and lethargic.

²¹Grievance letter to the Krome Detention Center signed by 157 detainees, "Atrocious Conditions Under Which Inmates are Living" (hereafter "Grievance Letter"), January 29, 1996 (see Appendix C).

²²Andres Viglucci, "Inmates Complain of Crush at Krome," The Miami Herald, February 16, 1996 (see Appendix B).

²³February 6, 1996 statement from a male detainee.

²⁴Even INS District Directors have acknowledged that Krome is a jail. Larry Rohter, "Processing for Haitians Is Time in a Rural Prison," The New York Times, June 21, 1992 (see Appendix B).

4. Since the men's dormitory burned down in 1992 the men have been housed in the women's dormitory, and the women have been held in the Public Health Service (PHS) facility. The men's dorm is surrounded by voluminous amount of heavy duty concertina wire. Mr. Powers said that extra wire was installed following Hurricane Andrew when the Bureau of Prisons transferred its prisoners to Krome. The wire has never been removed.
5. The main sleeping area of the men's dorm is a large, rectangular area with an officer station in the center. On either side surrounding the officer station there is a chain link fence or grill from floor to ceiling which separates the room into two halves with the officer in the middle. These fenced in areas resemble large cages. On either side of the officer station are six long rows of bunk beds. These bunk beds are very close to each other. The area is very stark. There are a few small, high windows on both sides. There was no furniture at all in the sleeping area, aside from the beds, a couple of TV's and a couple of small couches. There are six phones in the room.
6. The 'recreation room' is the second main sleeping area (past the first sleeping area, described above, and the bathrooms). Lined on each side are bunk beds which are also very close together. The room has a large TV which is in the midst of the bunk beds. The TV was on loud and appeared to be bothering detainees who were lying in their beds. The room had three phones, three vending machines (one for candy, one for sodas, and one for coffee), a refrigerator, and a couple of couches.
7. Off the rec room there are two other small rooms which house the "overflow" or overnight cases. They contain bunk beds which are very close together. Outside of this area there is an open space with some picnic tables and eight phones.
8. I noted seven minors in one section of the men's dorm alone, including a 13 year old boy from El Salvador. Krome officials claim they have no place to put these children because they have run away from Boy's Town or caused other problems and implied they could be at Krome indefinitely. These young boys seemed depressed and many were simply lying on their beds with their eyes closed.
9. The women are held in two separate rooms adjacent to the main waiting room in the PHS building. The larger room contained 18 bunk beds (total 36 beds). The beds were crowded together. The room was very stark and contained no other furniture. There were some small windows across the top. The adult female detainees are housed in this room.
10. Next to this room is an even smaller room where pregnant women and women with children are housed. I noticed one visibly pregnant woman. There were approximately 14 beds in this room.
11. The women's bathrooms are in the area across from their sleeping quarters. Women must walk very near the waiting area (where men and women wait for medical attention) to get to the bathrooms and are visible from the waiting area when they do so.

12. Officials said they were working on improving the bathrooms but that the detainees often intentionally clogged the toilets, creating their own mess. Mr. Powers admitted that the bathrooms the men were using were not designed for men as they are in the women's dorm where the men are now being housed. Similarly, one of the bathrooms the women must use is a men's bathroom.

13. I did not observe the detainees engaging in activities other than some men playing soccer. There were one or two officers monitoring them. I saw 2 small religious gatherings. There are minimal activities for the women.²⁵

At present, detainees report that Krome is overcrowded. Cots have been brought back to Krome, as there are not sufficient beds. Detainees report that they must spend much of the day outside. Krome is located in the Everglades, and the heat is oppressive. The air conditioning does not work properly, so that it is also very hot inside the buildings. As a result, it is difficult for detainees to sleep at night. The heat, physical conditions, and overcrowding have resulted in great tension between detainees, particularly of different nationalities, and between detainees and detention officers.

Although detainees may spend many months at Krome, it largely lacks organized activities for them. Detainees have little to occupy their time. But the INS uses a fanciful vocabulary which suggests the existence of such activities. For example, a room is described as a "rec room," although it houses detainees. An empty yard is described as a recreational area for women.

Krome remains an overcrowded facility, unsuitable for the number of detainees or the duration of their detention. Its flexibility to hold large numbers of detainees has apparently been viewed as permission to do so, regardless of the limits of detention standards or the effects on health and safety.

²⁵July 22, 1996 affidavit of Cheryl Little, Executive Director of the Florida Immigrant Advocacy Center (hereafter "Cheryl Little affidavit"), attached to this report (see Appendix A).

2

Policies, Practices, and Incidents of Abuse

Detainees and their advocates in recent months have complained about long stays of detention, lack of access to counsel, overcrowding, long stays of detention, irrational and arbitrary parole, the placement of "criminal aliens" in with the non-criminal population, transfers to county jails, unhygienic living conditions, harassment and physical abuse by guards, misuse of segregation and isolation, the absence of a grievance procedure, lack of proper medical care, the lack of access to basic necessities and reading materials, lack of access to the press and human rights groups, and the singling out of Nigerians and other Africans for special abuse. The following are some examples:

Parole and Long Stays of Detention

Detainees at Krome who have not yet entered the United States -- for example, those who are detained as "boat people" or "rafters" or when they arrive at the Miami International Airport -- are in exclusion proceedings. Most detainees at Krome fall into this category. Their release -- or parole -- is committed to the discretion of the INS. INS parole authority has been carried out in an irrational fashion. INS officials have ignored programs for the systematic release of asylum seekers who meet certain criteria. As a result, bona fide asylum seekers are needlessly detained.

8 C.F.R. § 235.3(b) authorizes the detention of aliens who arrive with no documentation or false documentation, and provides that parole of such aliens shall only be considered in accordance with 8 C.F.R. § 212.5(a). Section 212.5(a) puts the parole determination in the hands of the district director and provides for the parole of detainees for either "emergent reasons" -- generally serious medical conditions -- or for reasons "strictly in the public interest". The public interest categories include pregnant women, juveniles, those who have citizen or permanent resident relatives who have filed a visa petition on their behalf, witnesses, and the catch-all category of detainees whose continued detention is not in the public interest, as determined by the District Director. Detainees may be released under the public interest category only if they present neither a security risk nor a risk of absconding.

In carrying out its parole discretion, the INS has consistently acted in a very inconsistent and arbitrary manner. Whether a detainee is paroled, how long he/she is detained until paroled, and the conditions of parole (such as bonds or reporting requirements) have varied wildly through the years. Detainees are sometimes paroled after a long period of detention or even after a final order has been entered, either without explanation or for reasons which would have justified their parole long before.

Because parole is carried out in an unpredictable manner, attorneys for detainees cannot provide acceptable explanations of parole policy to them. Detainees are often frustrated and angered by the inequities they observe in parole decisions.

The INS has never been required to justify or systematize its parole policy or decisions, and invariably claims that it considers each parole decision on a case-by-case basis. The cumbersome process required for the OIG to track the INS's parole decisions prior to the June 1995 task force visit and the inadequacy of INS record-keeping prove both the difficulty and necessity of monitoring INS parole policy.

The INS in Miami has sabotaged or ignored programs providing for the orderly release of asylum seekers. In April 1990 the INS announced a Pilot Project to determine the feasibility of broadening the availability of parole for certain excludable aliens seeking asylum in the U.S. One of the four participating cities was Miami. Among other criteria, the project allowed release when the district INS found that the asylum applicant's claim provided "a reasonable basis" for the grant of asylum. The program required the payment of a bond in the amount of \$500 to \$2,500.²⁶

In November 1990 the Lawyers Committee for Human Rights issued its Interim Report on the Pilot Parole Project of the Immigration and Naturalization Service. The report concluded that "[i]n Miami, the absence of legal groups and social service involvement, along with severe communication and implementation problems on the part of the INS, has fostered a project characterized by disarray, uncertainty, and frustration."²⁷

In August 1991 at least 180 detainees engaged in a hunger strike, protesting unfair parole policies and abuses by detention officers.²⁸ The strike ended when INS officials promised "pre-screening interviews" of asylum applicants in which those whose asylum claims had "some legitimacy" would be paroled.²⁹ Detainee advocates criticized the program for not clearly stating the standards or conditions for release and for not providing adequate translators for the interviews.³⁰ The INS subsequently announced that the standard for parole was "credible fear of returning" to their country of origin or nationality. The INS also announced that those paroled would have their Immigration Court cases stayed, pending an interview by the Asylum Office. If found eligible for asylum, Court

²⁶Memorandum from Gene McNary, INS Commissioner, subject "Pilot Parole Project for Aliens Seeking Asylum in Exclusion Proceedings," April 26, 1990 (see Appendix D).

²⁷Lawyers Committee for Human Rights, Interim Report on the Pilot Parole Project of the Immigration and Naturalization Service, November 1990, at 32.

²⁸Donna Gehrke and Karen Branch, "Sit-down Strike Held at Krome," The Miami Herald, August 27, 1991 (see Appendix B).

²⁹September 3, 1991 letter from Miami attorney Joan Friedland to District Director Richard Smith (see Appendix A).

³⁰September 12, 1991 letter from Miami attorneys Joan Friedland and Beatriz Zúñiga McKey to INS Deputy Commissioner Ricardo Inzunza (see Appendix A).

proceedings would be terminated and the detainees granted asylum.³¹ Some detainees were paroled after their parole interviews; however, the balance of the process was never implemented.

In April 1992 the INS announced the establishment of the Asylum Pre-Screening Officer (APSO) Program, as an attempt to reimplement the 1990 Pilot Parole Project and expand it to all Service detention facilities, contract detention facilities, and major ports of entry. The APSO program allowed for the release on parole of persons whose asylum claims appear to be "credible and to provide substantial support for the application or request."³²

We are not aware of any implementation of the program at the Miami International Airport, despite the memorandum's explicit instructions to conduct interviews at major ports of entry. However, APSO interviews were subsequently conducted at Krome by INS attorneys. Many refugee advocates criticized the interviews because they were conducted by the same INS attorneys who argued against asylum seekers in Immigration Court and who played the same adversarial role in their interviews. While many detainees were paroled, many Haitian asylum seekers were denied parole and the concerns raised about the conduct of the interviews were not answered. Some detainees who were denied parole by the INS under the lower credible fear standard were subsequently granted asylum by an Immigration Judge under the more-difficult-to-meet well-founded fear of persecution standard.

Even during the existence of the APSO program, the INS carried its discretion to deny parole to cruel extremes. In January 1993 a federal magistrate ordered the parole of a woman whose prolonged detention caused her to become so severely depressed that she was unable to present her asylum claim in court or at an APSO interview.³³ The INS had refused to parole her although the PHS psychologist and psychiatrist and an independent psychologist recommended her release.

After Hurricane Andrew occurred in August 1992, many detainees were transferred to county jails throughout Florida when Krome was used to house federal criminals. Attorneys were unable to locate their clients. The detainees' court hearings were postponed, their ability to be adequately represented was diminished, and their parole interviews were suspended. A group of detainees, including some who had final deportation orders, who remained at Krome to assist in the clean-up were paroled.³⁴ The INS declined to parole those detainees who were transferred to county jails and whose detention was prolonged as a result.

In January 1993 more than 150 Haitian detainees began a hunger strike to protest the INS's policy of releasing Cuban detainees and to protest mistreatment. The hunger strike began after a planeload of

³¹September 26, 1991 letter from Luis del Rio, Director, Office of International Affairs and Outreach, INS, to Joan Friedland (see Appendix A).

³²Memorandum from Gene McNary, INS Commissioner, subject "Parole Project for Asylum Seekers at Ports of Entry and in INS Detention," April 20, 1992, reprinted in 69 Interpreter Releases at 526, April 27, 1992 (see Appendix A).

³³Fenting v. Chasse, U.S.D.C., S.D. Fl., Docket No. 92-2371-CIV-Davis.

³⁴Anthony DePalma, "Winds Free 40 Aliens, Stirring Second Storm," The New York Times, September 21, 1992 (see Appendix B).

Cubans, who arrived after a Cuban pilot commandeered a domestic flight, were paroled after one night at Krome. Some of the Haitians had been held at Krome for more than a year.³⁵

When Walter D. Cadman became District Director in January 1993, parole policy at Krome was fairer.³⁶ Detainees were permitted to rely upon affidavits to prove their relationships to U.S. citizens or residents, and more distant relationships were sufficient to warrant parole. Mr. Cadman recognized that the INS's requirement that Haitians produce birth certificates from Haiti, when such documents were almost impossible to obtain after the coup d'état, compelled detainees and their families to provide false documents to satisfy INS's unreasonable demands. Parole of Haitians at Krome was therefore exercised in a more humane manner; however, the INS still did not articulate parole standards or procedures for parole.

As a result of the change in parole policy at Krome, the practice of conducting APSO interviews was discontinued as unnecessary. APSO interviews have not been conducted at Krome for more than three years. APSO interviews continued in other parts of the country.

The June 1996 OIG report on Krome makes clear the degree to which parole policy is subordinated to political concerns. Beginning in August 1994, the INS detained for a substantial period of time Cuban rafters who under past practice would not have been detained at all or quickly paroled. The basis for the detention was the announcement by the Attorney General that Cubans arriving in the U.S. would be detained and parole criteria would be applied strictly. As a result, the number of Cubans in detention increased dramatically.³⁷ In response to political pressure from the Cuban community in South Florida, guidelines were issued by Deputy INS Commissioner Chris Sale in September 1994.³⁸ These guidelines became a mechanism for the INS to ease the parole policy.³⁹ By the end of 1994, virtually all the Cubans at Krome had been quietly paroled into the community, although the guidelines purported to only call for the release of Cubans who met certain criteria.

According to the OIG report, the parole policy at Krome changed after the May 2, 1995 change in policy announced by the Attorney General in which she stated that Cuban migrants intercepted at sea or in Guantanamo would be returned to Cuba and "Cubans who reach the United States through irregular means will be placed in exclusion proceedings and treated as are all illegal migrants from other countries." The INS began detaining third-country Cubans seeking entry through the Miami International Airport who failed to present documents, presented false documents or failed to cooperate with the INS. Release of these Cubans was limited to those who met the stricter regulatory criteria and who had cooperated with a Miami District intelligence gathering effort and had been

³⁵Mark Dow, " 'Freedom without Conditions': Resistance at Krome," Haiti Insight, Winter 1993.

³⁶Andres Viglucci, "More Haitians Being Freed from Krome," The Miami Herald, July 10, 1993 (see Appendix B).

³⁷OIG report, *supra*, at 40, ft. 30.

³⁸*Id.* at 40.

³⁹The guidelines did not call for the release of all Cubans, just unaccompanied children, accompanied children with the best possible care giver, plus other persons "presenting compelling humanitarian concerns" on a "case by case basis." Joan Friedland and Beatriz Zúñiga McKey, "Two-faced Immigration Policy," The Daily Business Review, December 9, 1994 (see Appendix B).

personally approved by the District Director for release.⁴⁰ The circumstances under which Cuban detainees were to be paroled were never publicly announced.

As a result of the change in policy, the population of Krome increased dramatically. In preparation for the Congressional visit on June 10, 1995, the INS paroled 58 detainees, 41 of them Cubans.⁴¹ Many had not been cleared medically through INS, and many of the Cubans were on a list of detainees not to be released. The basis for releasing so many Cubans was that the INS feared that two local Cuban-American Congressional representatives might encourage a demonstration at Krome.⁴²

The INS's attempt to conceal the basis for the large number of paroles was one of the grounds for the OIG's recommendation for disciplinary action to be taken against INS officials. The OIG report does not examine, however, the necessity to detain so many people, including many asylum seekers, in the first place or the overall rationality of the INS's parole policy.

Refugee advocates representing detainees of other nationalities likewise noticed a tightening of parole policy. In the past year, without any announced change in policy, parole has become far more restrictive. Detainees who would have been paroled a year ago are now likely to be detained for a long time before finally being paroled or deported.

Despite the tightening of the parole criteria, APSO interviews have not resumed. INS officials at Krome claim that they "fought" to keep the APSO interviews but were not able to prevail.⁴³ As a result, no mechanism exists in Miami to parole detainees who state a credible fear of persecution.

That the APSO program still is a viable option is made clear by the INS Headquarters Detention and Deportation Program (HQDDP)'s Interim Report Executive Summary with respect to a program review and investigation conducted of the ESMOR contract detention facility located in Elizabeth, New Jersey which calls for an expanded program at that facility.⁴⁴

The INS continues to parole most Cuban detainees. However, it has detained for substantial periods of time, or refused to parole at all, some Cuban detainees. In June 1996 the INS for the first time deported a Cuban detainee to a third country where he had no claim of residence. However, the INS has preserved its ability to avoid controversy over deportation of Cubans by exempting Cubans, including third-country Cubans, from exclusion hearings in the newly established Immigration Court at Miami International Airport.⁴⁵

⁴⁰OIG report, *supra*, at 88.

⁴¹*Id.* at 94, 96.

⁴²*Id.* at 95.

⁴³Cheryl Little affidavit ¶17.i.

⁴⁴INS Headquarters Detention and Deportation Program (HQDDP), Interim Report Executive Summary with respect to a program review and investigation conducted of the ESMOR facility, July 20, 1995.

⁴⁵Nancy San Martin, "Miami Airport's 'Port Court' Draws Criticism," Sun-Sentinel, July 1, 1996 (see Appendix B).

The Airport Court is designed for persons who will accept an immediate exclusion order, without contesting excludability or making any applications for relief, such as asylum. INS officials have privately advised attorneys that those who do not accept an exclusion order will be detained and not paroled. No public announcement has been made of this policy change.

The INS has a particular obligation to ensure the rationality of its parole policy, because its parole decisions are subject to very limited judicial review under a very deferential standard. Instead, the INS has construed the vast discretion accorded to it as permission to abuse its discretion.⁴⁶

Detainees and their lawyers must learn about the parole process by word of mouth. The INS does not provide detainees at Krome with any explanation of the procedure or criteria for parole. Detainees who do not have lawyers do not have access to reliable information about parole. These detainees must rely on help from their families on the outside, who know little or nothing about parole.

Deportation officers initially consider parole requests. Some deportation officers are very competent and conscientious. However, others are difficult to reach by telephone or in person, seldom take or return telephone calls or meet with attorneys in person at Krome, and do not even identify themselves in their voicemail messages. Deportation officers frequently do not provide a written response to parole requests or do so months after the parole request is made. Their parole denials generally state only that the detainee does not meet the criteria for parole but provide no further explanation.

Whether or not a detainee is paroled, how long he/she is detained before being paroled, and the conditions of parole have varied drastically over the years. The INS does not announce any changes in parole policy. When the parole policy became stricter in the last year, no announcement was made of the nature of the change or whether or how a detainee might meet any current requirements for parole. The INS appears particularly unyielding with respect to the detention of certain nationalities: e.g. detainees from African countries, India and Sri Lanka. The INS has recently refused to parole Sri Lankans who might go to the U.S.-Canada border to request asylum in Canada, where their relatives live and where they are almost certain to be admitted for refugee processing.⁴⁷

As a result of the tightening of the parole policy in the past year, detainees face prolonged detention.

The lack of communications on each detainees cases, as well as the long periods by which they are being held is a serious issue. Apart from the mental stress and psychological torture we face everyday by the officers, the long periods we have to wait for our case gives us a lot more stress. A lot of people have been at Krome for 8 months and more without any headway with their case.

I had been held for over 14 months before I eventually met with Mr. Intenzo, the head deportation officer on Thursday, February 1st, 1996.⁴⁸

⁴⁶The standard of review is whether the INS states a "facially legitimate and bona fide reason" to deny parole. Jean v. Nelson, 727 F.2d 957, 975 (11th Cir. 1984).

⁴⁷Despite this, the INS generally accedes in termination of exclusion proceedings when a paroled person is admitted to Canada as a refugee applicant.

⁴⁸February 6, 1996 statement of a male detainee.

Detainees have been detained at Krome, or county jails in Florida to which they have been transferred from Krome, for many months. When FIAC attorneys visited Krome earlier this year, most of the detainees they spoke with had been confined for about one year. Recently, a Nigerian was paroled after 13 months of detention.⁴⁹

Krome also houses detainees who are in deportation, rather than exclusion, proceedings. These detainees have entered the U.S. before being detained and are generally entitled to a bond; however, the INS often sets the bonds unreasonably high, both for detainees who have criminal convictions and for those who do not. For example, a \$5,000 or \$10,000 bond for someone who does not have a criminal conviction is common. The bonds do not appear to be based on any rational or uniform criteria. Detainees are often unable to post bonds, although they do not pose a security risk or a risk of absconding. Unlike criminal cases where an accused person may often post 10% of the bond, detainees must pay the full amount of an immigration bond or pay a fee to a bondsman higher than the fee paid in criminal cases.

In addition, the INS often delays the issuance of charging documents which initiate legal proceedings against the detainee, leaving the detainee incarcerated without formal charges. As reported by Miami immigration attorney Beatrice Zúñiga McKey:

Right now I have someone at Krome that is only charged with entering without inspection something like 10 years ago. That's the only charge against him. And he's got a \$30,000 bond. The bonds are used in a punitive manner -- almost designed to ensure that the person does not get out, and is not free to present his case with more resources than he would have at Krome. . . .

. . . We recently had a client that was at Krome from December 8th, 1995, and in early February he had still not been served with any kind of a charging document, and there he was at Krome. It's not the only one, and I have no idea how many others may be in there that they haven't served.

The INS can give you all kinds of excuses, they say, well you know, the government was shut down. But that didn't stop them from picking them up. Or they can't find the file, or the Border Patrol in Pembroke Pines has the file. All kinds of reasons, but there they sit, and it's not legal. They are supposed to be served within 48 hours of INS taking custody.⁵⁰

Parole and release on bond have enormous significance. Detainees have little access to lawyers. Their detention in Miami may simply reflect where they were taken into custody, and their families or groups that will support them may well be elsewhere in the U.S. As a result of their detention and isolation, they have great difficulty obtaining documents or presenting witnesses to support their claims.

⁴⁹This Nigerian was paroled after Miami Herald articles suggested that Nigerians were not being fairly considered for parole and after community leaders pushed for their release.

⁵⁰Excerpt from presentation by Beatrice Zúñiga McKey at Miami Forum on "INS Detention: The Plight of Immigrants Being Held in Detention," held at the University of Miami Law School on February 16, 1996 (hereafter "Miami Forum on INS Detention").

As an alternative to a rational parole system or to the setting of reasonable bonds, the INS has preferred detention policies which result in dangerous overcrowding or transfer of detainees to INS facilities in other states or to county jails in Florida or elsewhere. The problems raised by the transfer procedure are discussed below.

Lack of Access to Counsel

Detainees at Krome are generally not represented by lawyers in their exclusion or deportation hearings. They are not entitled to court-appointed lawyers. Because of Krome's distance and the difficulty of contacting, interviewing and representing clients in the Immigration Court there, even many private lawyers are unwilling to represent detainees at Krome. In addition, the few programs in Miami that represent indigent persons in immigration cases are not able to accept new clients because of their caseloads and the disproportionate time that is needed to represent a client at Krome. No *pro bono* project exists for the representation of Krome detainees like that, for example, in the Florence, Arizona INS detention facility. Such a program existed for a brief time when Cuban detainees were held at Krome in 1994.

An attorney visiting clients at Krome cannot schedule appointments in advance. The procedure is that the attorney appears at Krome and fills out a form listing the detainee's name and alien number. The detention officer in the lobby then refers to a list of detainees which is prepared daily and which lists detainees in alphabetical order, with each detainee assigned another number depending on rank in the alphabetical order. Detainees' names are often spelled incorrectly on the list, or first and last names are reversed. Some lobby officers will allow an attorney to review the list to find a detainee's name; however, other lobby officers state that is not permitted.

The lobby officer then calls the buildings where the detainees are housed to request the detainee by his/her number in the alphabetical listing. However, the officers in the buildings do not necessarily have that day's list (or vice versa) so the numbers given by the lobby officer do not necessarily correspond with the other officer's list.

The officers in the buildings do not always then call the detainees to their attorney interview, and attorneys may wait a substantial time only to learn that their clients have not been summoned. Often, the detainees' names are so garbled by the officers that detainees do not recognize their own names when officers call them for an interview. When they are unable to locate a detainee, the building officers do not generally notify the lobby officer that the detainee has not been located. Sometimes, the detainee is called from the building but only gets as far as the processing section because no officer is available to escort him/her to the attorney visitation area. When detainees are placed in the attorney visitation area, the attorney is often not notified that they are there.

The most conscientious lobby officers are very persistent in checking that detainees have in fact been called, have then been sent to the processing section, and have then been sent to the attorney visitation area. They also check not only the building where detainees are housed, but also work areas and the PHS Clinic. However, the not-so-conscientious lobby officers do not do this.

If an attorney is interviewing clients when meal times occur, the attorney is required to sign a form waiving the detainee's right to a meal. No arrangements can be made to obtain food for the client. Since the INS often delays bringing detainees to the visitation area, an attorney cannot necessarily schedule visits to not interfere with meal time.

In 1991, at the urging of the American Bar Association and after years of complaints concerning the attorney-client visitation area, the INS remodeled the area.⁵¹ However, the ironic result was that there were fewer booths after the remodeling than before. There are now only 4 booths. One of the new booths is substantially larger than the others. However, most of the space is on the attorney side, with little space on the detainee side. The result is wasted space.

Attorneys must frequently bring an interpreter to communicate with their clients; however, the space on the attorney side of the booths does not easily accommodate two chairs of the kind provided for attorney visits. Furthermore, the remodeling did not cure the problem that conversations may be overheard from one room to another.

A notice is posted in the lobby setting forth the hours that attorneys may visit their clients. However, no explanation is provided as to how attorneys may reach their clients by telephone. At times in the past, attorneys have been able to call the building where detainees are housed and speak to a live person who then summoned the detainee to the phone.⁵² The procedure was then changed to require the attorney to leave a message with a live person. The detainee would, if he/she received the message, return the call. When a new phone system was installed at Krome, attorneys learned from each other to call a particular extension to request to speak to a client. However, several months ago, that extension, without explanation, reported that the party was not available.

When asked, Krome Administrator Constance K. Weiss has recently advised attorneys that messages could now be left at yet another extension. However, the message at that extension does not state that this is the mechanism for attorneys to reach their clients. The message simply states that an alien number must be provided, and that messages will be retrieved by INS officers and "posted" for detainees. The few attorneys who are aware of this "system" report that their clients do not receive messages. Detainees report that no messages are posted. None of the changes in the "system" for calling clients were announced or set forth in a written notice in the lobby.

Because attorneys cannot reach their clients by telephone, they must go the long distance to Krome to speak to them, even when circumstances do not warrant a visit in person. As an alternative, detainees can be asked to call their attorneys regularly, but that too creates a problem. As reported in the affidavit of a male detainee at Krome:

You have to have money to make a phone call, or you call collect but when you call collect generally you can't get through. So if you don't have money you can't call out. . . . Some of the detainees have been using the phone and the officer hangs it up. . . . And we don't have nothing like access to attorneys. . . . I am so frustrated because I don't know what they're going to do with me and I don't have a law library or anywhere to get immigration books to see about my case.⁵³

⁵¹American Bar Association, Recommendations for Reconstruction of Attorney-Client Meeting Area in Krome Detention Center September 20, 1991 (see Appendix A).

⁵²Deposition of Michael Rozos, former Deputy Krome Administrator, HRC v. Reno, U.S.D.C., D.D. Fl., Docket No. 93-0080-CIV-DAVIS, taken July 12, 1993 (hereafter "Deposition of Michael Rozos"), at 94.

⁵³February 6, 1996 statement of male detainee.

The frustrations and difficulties of attorneys contacting their clients are explained by Miami attorney Beatriz Zúñiga McKey:

. . . You cannot get in touch with your clients, because they have a new answering system at Krome, one of those automated machines from hell. They tell you to dial this one number for speaking to detainees, you get the number, and they say "the party is not available," clunk. You have to rely on your client calling you.

So you go to Krome, that's the only way to get to talk with them, you have to keep going to Krome. You get there and you may be told that your client isn't there, and you have to insist.⁵⁴

Detainees, if they have money, may buy telephone cards so that they can make calls. But they report recently that they lose money because their calls are charged to the card although the calls do not go through.

Arbitrary decisions by Krome employees impede attorney-client visits, as reported by a male detainee:

Once I was trying to come into the building for something, and they were cleaning the building and they told me 'you can't come in here now, you have to get out.' I said 'no' I have an attorney visit, I'm here to see my attorney. And I didn't get to see my attorney, and I was upset. Officer ----- had me put in isolation for four days because of that.⁵⁵

Even sitting down to interview clients is a problem, as indicated by Miami attorney Michael Ray:

You go out there to interview clients, and a lot of times they don't have chairs. I've written letters at least twice about this. They take them out, I don't know for what reason, just to harass you. You write a letter, they put the chairs back. Then you go a few more times, the chairs are gone. You write another letter, the chairs are back. It's ridiculous. . . .

These [attorney visitation] rooms are paper thin. Everybody there can hear anything you're saying. . . .

. . . They not only treat the aliens bad, they treat us [attorneys] bad, because they want the message to get out that if you're going to have a lawyer, it's going to be very costly and very time-consuming. And your lawyer is going to have to jump through a lot of unnecessary hurdles.

Lots of times I've gone out to Krome, and my client is not there. And I say, what happened? I found out later. INS didn't call them. INS says when they called them, the client didn't answer. My clients tell me later, nobody called them.

⁵⁴Excerpt from presentation by Beatrice Zúñiga McKey at Miami Forum on INS Detention, *supra*.

⁵⁵February 15, 1996 statement of male detainee.

I had another case where the client didn't show up for court, and I found out later they had him out picking up trash -- where, I believe, they still pay them a dollar a day? I've been told, when I've gone out there, and I'm sitting there an hour waiting for a client, oh, well we called him and he doesn't answer or she doesn't answer. So I've learned how to get around that. I took my portable phone once, and while I'm sitting there, waiting an hour, I called the dorm and I asked for my client, and they get on the line.⁵⁶ And then the guard comes in and says, oh we keep calling, they don't answer. I say, 'come here, talk to them, they are right here on the phone'. It's just a little game they play.

Another thing to harass, is if you file a fee for an appeal or some motion, you can't pay a fee out at Krome. They don't take money there. They're not bonded to do that. So what do you have to do? You have to go to 79th Street and Biscayne Boulevard, often wait in line for an hour, and pay the fee, and then take the paper all the way out 30 miles to Krome.⁵⁷

INS officials denied during Cheryl Little's tour that chairs are not available. Despite this, sufficient chairs were for the most part unavailable when the booths were viewed during the tour.⁵⁸

Attorneys are denied access to their clients when a lockdown is called at Krome.⁵⁹ Attorneys are now not permitted to bring cellular phones or tape recorders into Krome buildings. There is no copying machine available to them. The only telephone accessible to them is a pay phone immediately outside the front door, in the area where INS employees smoke. Private communications are therefore impossible. Krome is located in the Everglades, so mosquitos and the heat are a significant problem for attorneys who use the pay phone. In addition, the phone is often broken. The INS ignored American Bar Association recommendations concerning attorney visitation.⁶⁰

Attorneys sometimes have difficulty ensuring that documents are timely filed at Krome. For example, pleadings sent to Immigration Court at Krome by courier service must be left with the INS lobby officer, rather than taken to the Immigration Court a short distance inside the building. The INS officer does not necessarily deliver the documents to the court or advise the Court that documents are there.⁶¹ The INS has not responded to complaints about the problem.

Attorneys cannot fax documents to the INS or the Immigration Court at Krome. Attorneys who leave documents (such as entry of appearance or parole requests) at Krome for the INS are not given stamped copies, which would enable them to prove service of the documents. Documents do not always reach their intended destination. There is a box in the lobby where documents may be left for the INS; however, documents are not regularly retrieved from the box. Some INS lobby officers will

⁵⁶The system of reaching clients directly has since been eliminated.

⁵⁷Excerpt from presentation by Miami attorney Michael Ray at Miami Forum on INS Detention, *supra*.

⁵⁸Cheryl Little affidavit, ¶17.p.

⁵⁹Larry Rohter, "Haitian Refugees Allege Abuses at Florida Center," The New York Times, June 5, 1992 (see Appendix B).

⁶⁰See ABA recommendations, *supra*.

⁶¹May 9, 1995 letter from Joan Friedland to Krome Administrator, Constance K. Weiss (see Appendix A).

accept documents and ensure that they are delivered to the appropriate person, but others refuse to do so. Deportation officers, if reached on the phone, can be asked to pick up documents but some regularly say that they are too busy to do so. Requests to PHS for medical records must be left with the lobby officer; however, they are not always delivered to PHS.

The INS for years opposed checking the accuracy of its list of free or low cost attorneys, which included organizations that did not provide services to detainees and did not state what services were available and to whom. The INS is now required to verify the accuracy of its list as part of the settlement of a lawsuit brought by Haitian detainees. Pursuant to that settlement agreement, the INS is also required to provide written and videotaped know-your-rights materials to Haitian detainees.⁶²

The list provided by Immigration Court remains inaccurate, as reported by Randolph McGrorty, attorney for the Haitian Catholic Center in Miami:

By regulation, all the judges have to serve all people in proceedings with a list of free or low-cost attorneys. And on the list that they give in Miami, I don't think that there is any one who is taking clients right now, because everyone is just overwhelmed. And the judges are very, very ceremonious in presenting this document to these clients. This is what they are doing to satisfy due process. They are giving them a list of attorneys. And the list has not been updated recently. . . .

. . . And that leads to one of the biggest obstacles. With few exceptions -- and there are some exceptions to this, there are some really good people that work there, and are helpful, and that has to be said -- that by and large, there is a bunker mentality at Krome, and attorneys are considered the bad guys. They [the employees] do not help you.⁶³

Many detention officers speak ill of lawyers. Detainees are often provided with incorrect and harmful information by Krome employees, as reflected in this statement by Miami immigration attorney Beatrice Zufiiga McKey:

Another major problem at Krome is that the guards provide all kinds of misinformation. Sometimes they mean well, but don't have the correct information, and so your client may be more inclined to trust the guards than they are to trust you, because after all, the guards are there and they are a part of INS. And it's hard to explain to clients, no, that's not quite how it works. Sometimes the guards do it out of meanness, and the clients can't tell one from the other. For example, I had a case last summer of someone that had been in the U.S. since he was one year old, and he is now in his 30's. And a guard told him just go into court, and say 'yes' to whatever the judge says, and that then he would get an order, and he would go to Canada, and within six months he would be back in the U.S. with his green card. Well, the man went into court and said 'yes' to everything the judge asked him, including have you

⁶²HRC v. Reno, *supra*.

⁶³Excerpt from presentation by Miami attorney Randolph McGrorty at Miami Forum on INS Detention, *supra*.

been convicted of theft, and have you been convicted of possession of burglary tools. The judge said, 'well you are deportable.' . . .⁶⁴

Sometimes even having a lawyer is harmful. It's not an uncommon problem for detainees to hire lawyers to represent them at Krome and never see the lawyer again or not until a few minutes before an important hearing, or the lawyer does not do the legal work he/she was hired for, such as to file an asylum application. For detainees, there is little recourse, since they have spent their money on the first lawyer, and may not have money for another lawyer. The Florida Bar has expressed little interest in complaints from detainees. In any event, immigration lawyers are not required to be admitted to practice in Florida, they must simply be admitted to practice somewhere in the U.S. Therefore, the Florida Bar has no jurisdiction to receive complaints against lawyers who are licensed elsewhere.

Detainees who do not have lawyers often cannot find people outside Krome who can help them and cannot even contact INS personnel inside Krome about their cases:

Inmates must use pay phones to receive information about their cases. . . . People without money or families in the good U.S.A. do NOT stand a chance of outside communication or receiving information about their case, because there are NO FREE connections ANYWHERE in or out of the compound, not even the Operator 'O' or '411' to receive much needed phone numbers for legal or whatever reason, especially people who have no family in the U.S.A. to help them, and EMBASSIES will NOT accept COLLECT CALLS!!!

Inmates have absolutely "NO" means of communication within the I.N.S. System . . . Information and requests regarding individual cases are rarely answered in any form at all.⁶⁵

Detainees do not have access to legal materials as an alternative to having a lawyer. Krome's "law library" is completely inadequate. As set forth in Cheryl Little's affidavit:

The 'law library' is located in a separate building next to the soccer field. The building referred to as the law library consists of two rooms, one where classes are supposedly given and one smaller room which has a file cabinet in the corner which contains the only law books in the building. These books include only the following: 17 dated Shepards, 6 dated U.S.C.A.'s, 6 dated Immigration Law and Procedure guidelines, a dated Amnesty International report on Haiti, and 2 dated Washington Office on Haiti reports. There were no detainees in the building when I visited.⁶⁶

INS officials express the belief that the law library is somewhat better equipped than as described above, but concede that detainees do not know of its existence. During Cheryl Little's April 5, 1996 tour of Krome, Assistant District Director Kenneth Powers commented that he had brought a couple

⁶⁴Excerpt from presentation by Beatrice Zúñiga McKey at Miami Forum on INS Detention, *supra*.

⁶⁵Grievance Letter, *supra*.

⁶⁶Cheryl Little affidavit, ¶16.

of boxes of books for the law library. When he realized these books were not in the library, he asked "where were they?" No one knew the answer.⁶⁷

According to Michael Rozos, former deputy administrator of Krome, the "standard operating procedures" under which Krome operate require the facility to provide a law library. There is no copy machine available to detainees in the "law library."⁶⁸ The difficulty of obtaining legal representation at Krome and the lack of an adequate law library ensure that detainees are not properly represented in Immigration Court or before the INS.

Transfers

The INS claims that it has full legal discretion to determine where to house detainees. As a result, it has regularly transferred detainees from Krome to out-of-state INS facilities and county jails, and their cases are heard in Immigration Courts in or near those facilities. Often, these facilities are in remote areas where translators and attorneys are not available.⁶⁹

Where the detainee is represented by a lawyer in Miami, but a charging document has not yet been filed in Immigration Court at Krome, the INS has generally refused to return the detainee to Miami following a transfer. Haitian detainees have sometimes challenged these transfers in court and the INS has been ordered to return the detainees to Miami where they can be represented.⁷⁰

The INS also transfers to county jails in Florida detainees whose cases are pending in Immigration Court at Krome or before the Board of Immigration Appeals. The INS contends that such transfers are limited to detainees who have no hearings scheduled for a while or whose cases are on appeal and are not in need of immediate attention.⁷¹ Attorneys for detainees dispute this.

That the INS has abused its power to transfer detainees is clear from the June 1996 OIG report. Between May 1995 (when detention policy toward Cubans changed) and June 8, 1995 (two days before the task force's visit) few detainees were transferred from Krome to other INS and non-INS facilities. When INS officials decided to reduce Krome's population for the task force's visit, transfer to other facilities was one of the mechanisms used. A June 9, 1995 e-mail message from Krome Administrator Constance K. Weiss stated that "[w]e intend to move 40-50 aliens to non-

⁶⁷*Id.*, ¶17.c.

⁶⁸Deposition of Michael Rozos, *supra*, at 189-90, 192.

⁶⁹Andres Viglucci, "Not All Refugees Are Treated the Same," The Miami Herald, November 29, 1992 (see Appendix B).

⁷⁰See, e.g., Louis v. Meissner, 530 F. Supp. 924 (S.D. Fla. 1981) where a Florida district court judge enjoined the INS transfer policy in effect at that time, and Michel v. Milhollan, Case No. 89-1040 (S.D. Fla. 1989), where a Florida district court judge blocked the forced transfer of dozens of Haitians to facilities in Louisiana and Texas.

⁷¹Cheryl Little affidavit, ¶17.1.

Service facilities upstate. The group will include a subgroup destined for New Orleans and another group to be stashed out of sight for cosmetic purposes.”⁷²

In the early morning of June 10, just 12 hours before the task force’s visit, 45 detainees were sent to the Jackson County Jail near Tampa. The group transferred included 20 Chinese detainees who were sent on to Orleans Parish Jail in New Orleans, Louisiana several days later. The group also included 20 detainees who were selected without adequate review of their files and then returned to Krome four days later.⁷³

The OIG concluded that the transfers were done “in a rush to reduce Krome’s population before the Task Force’s arrival to prevent the Delegation from seeing the true conditions that then existed at Krome.”⁷⁴ According to the OIG, the effort to reduce Krome’s population was initiated in the Miami District and was approved by Eastern Regional managers. The OIG found that “a collective effort appears to have gone into generating and perpetuating false information about the alien transfers from Krome.” The OIG concluded that INS officials stated “omissions, inaccuracies and distortions” to the charges of misconduct, and tried to “concoct rationales and false explanations for the transfers that were designed to obfuscate and mislead, rather than set the record straight.”⁷⁵

Despite the INS’s abuse of its power to transfer detainees, such transfers are an increasingly used mechanism to deal with overpopulation or other problems at Krome. In the past year, the INS has regularly transferred detainees to county jails in Florida although their cases remain in Immigration Court at Krome. These county jails are located in Key West, Panama City, Ft. Lauderdale, Bradenton, and elsewhere. The jails are often a considerable distance from Miami so that communication with attorneys and families and preparation for hearings are rendered difficult or impossible. Detainees complain that conditions at these jails are even worse than at Krome.

The INS has often transferred detainees even when there are specific instructions not to, such as when the detainee is scheduled for a psychiatric examination or must confer with his/her lawyer to prepare for court. Detainees regularly have missed their court appearances because they have been moved to a county jail and have not been returned for the court appearance. Lawyers are frequently not notified that their clients are about to be, or have been, transferred. They learn of the transfer only when they go to Krome to interview their client or for a hearing. In the case of bond hearings, the attorney is put in the untenable position of proceeding with the hearing without his/her client, or postponing the hearing so that the client’s detention is prolonged.⁷⁶

⁷²OIG report, *supra* at 47.

⁷³*Id.* at 57-58.

⁷⁴*Id.* at 63.

⁷⁵*Id.* at 69.

⁷⁶Presentation by Miami attorney George Crimarco at Miami Forum on INS Detention, *supra*.

Transfers can have drastic consequences for detainees:

Due to the erratic transportation of detainees, a lot of us are made to miss our court dates and at times due to this, our files are taken out and dumped somewhere else to be forgotten as it occurred to me. At times the case goes on in our absence and we're always ordered deported even then we have no legal representative.

My case is an example. After several requests to know when my court date was due because I had no lawyer, nothing was forwarded to me and none of my requests was replied. I was ordered deported without my presence in court and no lawyer present. After 14 months, I am still waiting for my court date.⁷⁷

Transfer from Krome is also a mechanism to threaten detainees and stifle complaints:

The officers here talk to and threaten all detainees. They say that they are God over us, and show no sign of respect. They put us through all sorts of emotional distress. If you as a detainee try to point this out to them, you get transported out of Krome, to any jail of their choice. If you request to know why, their reasons normally are overcrowding, disobeying an officer, and it is an order from Washington.⁷⁸

Detainees state that they do not complain about conditions at Krome or the behavior of detention officers because they fear being transferred. Some of the detainees interviewed for this report were afraid to provide sworn statements because they feared retaliation. Some detainees who sent a letter to the Miami Herald complaining of "Atrocious Conditions Under Which Inmates Are Living" were shortly thereafter transferred to county jails and/or placed in administrative segregation. Shortly after the detainees' January 29 letter was mentioned in the Miami Herald, a male Nigerian detainee was transferred to a jail in Key West. This detainee, who was quoted in the Herald article, claims that before he was transferred, Krome guards beat him severely, causing injuries to his head, ribs, shoulder, face and knee.⁷⁹

Miami-based writer Mark Dow addressed the problem of transfers in a recent article:

Transfers play another role, too. Detainees have long seen them as a form of intimidation and punishment . . . [a male Nigerian detainee's] name appeared in the *Miami Herald* story on Krome . . . [he] was in the clinic for chest pains the day after the *Herald* story appeared, and a number of immigration officials came by to see him there, to put a face with the name: PHS (Public Health Service) employees -- technically a separate entity from the INS -- pointed him out to the INS officials, says [this detainee].⁸⁰

⁷⁷February 6, 1996 statement of a male detainee.

⁷⁸*Id.*

⁷⁹Andres Viglucci, "Krome Detainee Accuses Guards of Assault," *The Miami Herald*, February 24, 1996 (see Appendix B).

⁸⁰Mark Dow, "The Latest Victims of I.N.S. Discrimination at Miami's Krome Detention Center," *Haiti Progrès*, March 1996 (see Appendix B).

Transfers create additional problems for detainees. Personal property is not always given back to detainees, or is lost, during a transfer. Detainees who had cash in their possession when detained will be given cash upon release from Krome. However, if released after the transfer, they may be given their funds in the form of a check which they cannot cash because they have no identification. They then have no money to travel.

Transfers further diminish the already limited ability of detainees' attorneys and others to monitor the conditions of detention and the ability of detainees to bring to the light of day their conditions of detention. Since the INS has permitted conditions at Krome which threaten health and safety, its ability and inclination to oversee conditions at the county jails are questionable.

Unhygienic Living Conditions

Many detainees complain of unhygienic living conditions caused by overcrowding at Krome. Their concerns are supported by PHS personnel. On June 8, 1995 PHS Director Dr. Ada Rivera reported:

We would like to take this opportunity to reiterate our findings during our environmental health inspections for the last couple of months. The overcrowding poses a health problem due to the lack of cleanliness and appropriate air circulation. We have noticed an increase in respiratory and skin conditions. These issues must be urgently addressed to prevent any potential epidemics.⁸¹

Despite the clear warning about unhygienic and dangerous conditions, the INS took no action except to advise Dr. Rivera to improve the quality of her paperwork.⁸²

Detainees complaints about unhygienic conditions include the following:

Conditions of bathrooms is atrocious. Plumbing pipes leak continuously leaving the floor with large pools of water around the toilets. When volunteer inmates clean the bathroom after washing the walls and floor with a hose; because the floor is not level, there are numerous large pools of water remaining. A number of requests have been made to various officers on duty suggesting that they supply us with a 'SQUEEGEE' to push off the water into the drains, but they have totally ignored the requests.

There are only eleven (11) toilets available to over three hundred (300) men. Some of the toilets do NOT always work properly (auto sensor flush): sometimes being filled with human waste (feces) for days on end.

Our clothes are changed only ONCE weekly. . . . If and when some of the men wash their own clothes while taking a shower, officers have threatened to take their clothes that were hung on the fence or barbed wire and throw them in the garbage.⁸³

⁸¹OIG report, *supra*, at 32.

⁸²*Id.* at 33-34.

⁸³Grievance Letter, *supra*.

The INS's inclination to deny the existence of a problem and to deflect blame continues. The INS blamed problems with the toilets on detainees, and denied the charges about changes of clothing.⁸⁴ However, the complaints continue to date.

The problems are even worse in the summer, which, in South Florida, is brutally hot. Detainees are required to spend hours outside their buildings, where heat and mosquitos are oppressive. Inside the men's building, the air conditioner barely functions (except where the officers are). Detainees report difficulties sleeping and that many detainees feel ill because of the conditions.

Because the INS refuses to allow access to journalists, human rights or community groups (except, on rare occasions, in a well-orchestrated tour) on-going examination of physical conditions at Krome is difficult. However, even when the unhygienic conditions are well-documented, such as when reported by Dr. Rivera, the INS ignores them.

Physical Abuse, Harassment, and Psychological Abuse

Detainees' complaints of psychological abuse, harassment and physical abuse by certain detention officers have been a constant theme at Krome. INS officials have generally denied the allegations of abuse or claimed that they are grossly exaggerated.⁸⁵ INS officials do acknowledge that there have been consistent problems with turnover of detention officers and inadequate training.⁸⁶ While detainees say that many detention officers treat them humanely, some of the same detention officers who were named by detainees in complaints of mistreatment years ago are also mentioned in recent complaints.

In 1990 the FBI, under the direction of the Civil Rights Division of the Justice Department, initiated a criminal investigation of physical and sexual abuse by Krome guards. No results have been announced to date. However, former District Director Richard Smith claimed that, as long as the investigation was on-going, he was powerless to punish guards or change the system.⁸⁷

The April 1991 Minnesota Lawyers International Human Rights Committee and Physicians for Human Rights report, Hidden from View: Human Rights Conditions in the Krome Detention Center,

⁸⁴Andres Viglucci, "Inmates Complain of Crush at Krome," *supra*. See also, Cheryl Little affidavit, *supra*, ¶¶12 and 17.g.

⁸⁵Lizette Alvarez and Debbie Sontag, "Krome Haunted by Claims of Abuse," The Miami Herald, April 28, 1991. See also, Cheryl Little affidavit, *supra*, ¶17.u (see Appendix B).

⁸⁶Deposition of Kenneth Powers, *supra*, at 33-34. In addition, in an April 1996 meeting with Cheryl Little, District Director Cadman expressed the need for "cultural sensitivity" training for INS employees at Krome.

⁸⁷Lizette Alvarez and Debbie Sontag, "Krome Haunted by Claims of Abuse," *supra*.

included reports of serious incidents of physical and sexual abuse of detainees.⁸⁸ In April 1991 The Miami Herald reported new allegations of physical and sexual abuse.⁸⁹

The Haitian Refugee Center's June 1991 report, "Conditions at Krome North Service Processing Center," reports physical and psychological abuse of detainees. In their June 1991 complaint, Chinese detainees complained of verbal and physical abuse.⁹⁰ In August 1991 at least 180 detainees, representing over twenty different nationalities, engaged in a hunger strike, protesting unfair parole policies and abuses by detention officers.⁹¹ Haitian detainees complained in June 1992 that guards physically abused them, compelled them to scrub toilets with their bare hands and to pick up cigarette butts in the dark, confiscated their Bibles, and justified this treatment by telling detainees they were HIV positive anyway.⁹² If women cried at being subjected to this treatment, they were compelled to pick up stones.⁹³ In January 1993 Haitian detainees complained they were threatened with physical harm or jail if they did not end a hunger strike carried on to protest discriminatory parole denials.⁹⁴

On January 4, 1996 the Justice Department announced that a Krome officer had:

Pled guilty to one felony count of . . . depriving a detainee . . . of his civil rights. . . . After a verbal incident in the cafeteria . . . [the Krome officer, Edward Calejo] escorted the detainee to the dormitory building and placed him in a small cell. Inside the cell Calejo, without warning or lawful justification, punched [the detainee] in the head. Calejo then kicked [him] and punched him multiple times about the head and body . . . Later that day, in an effort to cover up what he had done, Calejo had other guards punch him in the chest and photograph the resulting injury to support a false report claiming [the detainee] was the aggressor. He also made attempts to persuade a witness to support his false report and tried to get the FBI to begin an investigation of the detainee.⁹⁵

⁸⁸Minnesota Lawyers International Human Rights Committee and Physicians for Human Rights, Hidden from View: Human Rights Conditions in the Krome Detention Center (hereafter "Hidden from View"), April 1991.

⁸⁹Lizette Alvarez and Debbie Sontag, "Krome Haunted by Claims of Abuse," *supra*.

⁹⁰"No discrimination, No Insult, For Freedom ---- An Open Letter to the American People," submitted by 70 nationals of the People's Republic of China (*see* Appendix C).

⁹¹Donna Gehrke and Karen Branch, "Sit-down Strike Held at Krome," *supra*.

⁹²Larry Rohter, "Haitian Refugees Allege Abuse at Florida Center," *supra*.

⁹³June 3, 1992 affidavit of Miami attorney Candace Jean (*see* Appendix A).

⁹⁴Andres Viglucci, "Hunger Strike Continues for Some," The Miami Herald, January 9, 1993 (*see* Appendix B).

⁹⁵U.S. Department of Justice, "News Release: Former Guard Beating Detainee," January 4, 1996 (*see* Appendix B).

Complaints of abuse continue to date:

On the 21st of February 1996, Lt. ----- led an assault on me with Lt. ----- and about six other officers. I was assaulted because I told them that I don't want to leave Krome because I was waiting for copies of all my documents in regards to my case with Immigration. I told Lt. ----- that after I collect my documents I will be glad to leave and in the mean time he could put me in isolation if he doesn't want me back in population. He said no . . . I was then beaten up. After being assaulted, I was taken to the Clinic to be cleaned up. On the way I collapsed and when I came to, I was being put on a wheel chair with cuffs on my arms and legs. While I was at the clinic, Lt. ----- came to me and said that there is nothing in this world that will stop my being shipped out to the county jail they are taking me to. He said . . . 'the only way you . . . will be allowed to stay in Krome will be over my dead body . . . next time you shut your mouth' . . .⁹⁶

The following is excerpted from a letter sent to FIAC by a male detainee at Krome:

I am writing about the brutal assault inflicted upon me by the Krome Detention Immigration officials . . . I am writing this statement with a slight con[cussion] to my head; a cracked rib on my right side; a bruised and swollen knee; a so[re] shoulder; and a long scratch mark to the right side of my face.⁹⁷

Detainees have also complained of abuse by other detainees and the INS's failure to protect them, arising out of the mixing of asylum seekers with detainees with criminal convictions. Such complaints were reported by Mark Dow to District Director Walter Cadman:

Rape and physical threats of asylum-seekers by so-called 'criminal detainees' are reportedly taking place at Krome. I have been told [by detainees] that asylum-seekers and others in INS custody with no criminal history are being housed together with men who have served time for violent crimes and are now awaiting deportation by the INS. As a result of this living situation, asylum-seekers spend the nights in fear for their safety. . . . In particular, I have heard allegations that detainees have raped other detainees in the men's restrooms, though INS guards are not far away Chinese asylum-seekers may be the primary victims of these attacks, and because there is apparently no Chinese-speaking interpreter in the living areas, they are unable to report these incidents to anyone in a position of authority. . . .⁹⁸

Krome officials deny the allegations. Krome Administrator Constance K. Weiss told Cheryl Little, during her tour of Krome, that if this was happening they would know about it because "the Chinese are very aggressive, are very emotional, very vocal and would be protesting to the rafters." Mrs. Weiss said "the things people will say to get some attention". In an odd acknowledgment of sexual

⁹⁶February 6, 1996 statement of a male detainee.

⁹⁷February 22, 1996 statement of a male detainee.

⁹⁸March 19, 1996 letter from Mark Dow to District Director, Walter D. Cadman (hereafter "Dow letter to Cadman") (see Appendix A).

assaults of detainees, she also added that sexual assaults and rape of detainees “goes on whether there are felons there or not”.⁹⁹

Detainees have also consistently complained of psychological abuse and harassment by certain detention officers. As stated by a male detainee at Krome:

What is going on in here is psychological torture. . . . Sometimes the officers mistreat the detainees by assaulting the detainees. And if you complain about the way they are treating you, they threaten to send you to jail or to isolation. . . . The detainees are more than depressed. The officers tell us ‘I’m sorry if you don’t understand Spanish, get out of my face. This is America, go back to your country.’¹⁰⁰

Mark Dow also advised the District Director of reported threats by detention officers to detainees:

On February 19, 1996, an officer ----- reportedly went into a men’s dormitory area ‘shouting [and] boasting.’ I was told that ----- took down his own pants and ‘asked if we’re man enough to fuck his ass . . . [if not] he’ll fuck, our ass.’ There were reportedly some 70 witnesses to this incident.¹⁰¹

Detainees report they are treated in a demeaning manner:

After being locked outside -- in the yard like ‘PIGS IN A STY’, grown men, whether innocent or guilty of crimes, have to beat on the door and BEG to use the Bathroom, only to be DENIED ACCESS for up to approximately one and half hours . . .¹⁰²

Detainees’ families are treated with the same disrespect. After the death of a Nigerian detainee, his U.S. citizen partner (and the mother of his child) reported as follows:

I will never forget for the rest of my life how I was told that Theo had died. They [Krome official] told me on the phone like it was nothing. They didn’t even say they were sorry. Can you imagine? Even doctors, who have so many patients, take the time to say I’m sorry.

Mr. Intenzo told me that there were two boxes of Theo’s things that I could pick up. But when I got to Krome, there was only one box. Then, three or four weeks later, Officer ----- called me to say they found the second box. ----- was the one who really abused my husband, he had him thrown in segregation and he had him transferred to another jail. I was able to stop the transfer, they said it was a mistake, but I can’t imagine what happens to people with no one to help them. I think ----- hated Theo because so many of the detainees looked up to him, he was so nice and helpful. Theo did a lot of writing at Krome, about the way the detainees were being treated. I think the people at Krome went

⁹⁹Cheryl Little affidavit, ¶17.r.

¹⁰⁰February 15, 1996 statement of a male detainee.

¹⁰¹Dow letter to Cadman, *supra*.

¹⁰²Grievance Letter, *supra*.

through Theo's writings and that's why they kept the second box from me. They probably took out the things he said about the way they were being mistreated at Krome. And I told Mr. Intenzo I wanted a copy of the report about what happened to Theo, but Mr. Intenzo said he had to put it all together, sum it up. I still don't have a copy of that report.¹⁰³

Detainees report that they fear making official complaints about detention officers, for fear of retaliation such as transfer to a county jail (where conditions are reportedly worse than Krome).

Segregation and Isolation

The INS has failed to provide adequate procedures for the use of segregation and isolation cells, nor do the cells meet accepted standards.

The terms "segregation" and "isolation" are used interchangeably at Krome. According to ACA standards, segregation housing units must provide living conditions which approximate those of the general inmate population. All cells/rooms must provide a minimum of 80 square feet, of which 35 square feet is unencumbered space.¹⁰⁴ All inmate rooms/cells must have access to natural light.¹⁰⁵ The Krome segregation area does not meet these specifications. As reported by Cheryl Little after her 1996 tour:

The isolation (segregation) area I was shown consisted of seven very tiny cells. I saw one cell which had one bunk bed (two cots), a small toilet, sink, fluorescent ceiling light, and nothing else. There was no window. The cell had a linoleum floor and was very dirty. I was told the other isolation cells are identical to the one I saw.¹⁰⁶

According to the ACA, a classification system (which is the mechanism by which a detainee would be assigned to isolation) must be written, contain specific criteria and procedures, and contain an appeals process.¹⁰⁷ If any such procedure exists at Krome, detainees are not aware of it.

The INS contends that detainees who are placed in isolation for disciplinary reasons are given written notice of the charges against them (in English only) and given a hearing within 24 hours at which they may present evidence, and that there is a 72 hour limit on time in isolation.¹⁰⁸ Detainees, however, contend that they are put in isolation without good cause (such as when an officer dislikes a detainee) and that they are not told the charges against them. They have routinely complained that physical assaults by guards take place in the isolation cells.

¹⁰³February 26, 1996 statement of partner of detainee to Cheryl Little.

¹⁰⁴ACA Standards, *supra*, 3-ADLF-2C-11 and 12.

¹⁰⁵*Id.*, 3-ADLF-2D-03.

¹⁰⁶Cheryl Little affidavit, *supra*, ¶14.

¹⁰⁷*Id.*, 3-ADLF-4B-01 and 02.

¹⁰⁸Michael Rozos deposition, *supra*, at 246-251. See also, Cheryl Little affidavit, ¶17.a.

The OIG report describes the isolation area as one where “known criminals and aliens who have disciplinary problems are housed separately from the general population.”¹⁰⁹ However, the INS uses the isolation cells at Krome for a wider range of detainees. As reported by Miami attorney Michael Ray:

I had a client in Krome with his wife and children. At one point, six other people threatened him, because he was forced to tell that these other people had a pair of scissors that they weren't supposed to have. So then these people threatened my client. So what did Immigration do to protect my client? They put my client in solitary confinement for 21 days. And they would not let him go to religious services.

I wrote a letter complaining about it to District Director Walter Cadman, and he wrote back, ‘Protective custody is a legitimate purpose for segregating the detainee from the rest of the population if his continued presence in that population may jeopardize his safety and well-being. Although I cannot absolutely guarantee the safety of a particular detainee, it is my responsibility while an alien is in my care or custody to take reasonable steps to protect him. In Mr. -----’s case, I believe the steps taken to assure his safety were reasonable. Keeping him separate until those threatening him were removed eliminated that possibility.’

Protective custody may therefore be carried out for extended periods far in excess of 72 hours in cells whose conditions are punitive. However, the INS does not consider alternatives to protective of custody, such as release from detention.

Grievance Procedure

ACA standards require a “written grievance procedure that is made available to all inmates and includes at least one level of appeal.”¹¹⁰

In June 1991, the American Bar Association asked Miami INS officials what INS policy was regarding detainee grievance procedures, isolation and segregation. At INS’s request, the ABA submitted written questions. Although INS officials repeatedly promised to answer the ABA’s questions, they have never done so.¹¹¹

During Cheryl Little’s April 5 tour of Krome, Krome administrators contended there is a grievance procedure in place. They said detainees should be aware of it, although they do not inform them of such a procedure. According to Krome Administrator, Constance K. Weiss, the “Detainee Request Form” is the form to be used by detainees in making a grievance. The detainee request form, however, does not even mention the word grievance and is, logically, understood by detainees to serve as the mechanism to request something, not as the form to use in filing a grievance. The form

¹⁰⁹OIG report, *supra*, at 28.

¹¹⁰ACA, 3-ADLF-3E-09.

¹¹¹January 12, 1993 from Christina DeConcini to Cheryl Little; June 13, 1991 letter from Christina DeConcini, on behalf of the ABA, to Miami District Counsel Dan Vara, with attached questions (see Appendix A).

is in English only and is in the custody of officers in the dorms. Detainees must ask officers for the form, a copy which is attached to this report.¹¹²

According to the INS Chief Patrol Agent, an official INS complaint form does in fact exist for complaints of misconduct against an employee of the INS or the United States Border Patrol.¹¹³ The form is entitled "Report of Complaint" and requests specific information regarding the incident giving rise to the complaint. The form is, however, only in English and Spanish. This form is not provided to Krome detainees; nor are they aware of its existence.

Not surprisingly, the existence of the "Detainee Request Form" has not resulted in the filing of formal complaints about INS employees or incidents at Krome. Krome Administrator Constance K. Weiss advised Cheryl Little during her tour that they received hundreds of such forms last year, but have received no complaints about officers physically or sexually abusing detainees.¹¹⁴

The INS has selectively provided a grievance procedure for certain detainees. According to Kenneth Powers, Assistant District Director for Detention and Deportation, when substantial numbers of Cubans were at Krome last year, the INS set up detainee grievance committees for them. He stated that the INS would look into setting them up again.¹¹⁵

Not all INS employees claim that a functioning grievance procedure exists. District Director Cadman agreed, in a meeting with Cheryl Little, to institute an effective grievance procedure at Krome and to look into the establishment of a Citizens' Review Board.¹¹⁶

The INS has failed to implement a grievance procedure, to ensure that there is no retaliation for the filing of grievances, and to provide a mechanism for all detainees to present their grievances.¹¹⁷

Adequacy of Medical Care

The medical clinic at Krome is operated by the Public Health Service. The clinic is accredited by the National Commission on Correctional Health Care, and in theory operates outside INS authority.¹¹⁸

¹¹²Cheryl Little affidavit, ¶17.m.

¹¹³March 14, 1996 letter from B.G. Kring to Florida Immigrant Advocacy Center, with attached Form I-847 (see Appendix D).

¹¹⁴Cheryl Little affidavit, ¶17.m.

¹¹⁵*Id.*, ¶17.n.

¹¹⁶April 26, 1996 letter from Cheryl Little to Walter D. Cadman (see Appendix A).

¹¹⁷It should be noted that people who work at Krome may also be unable to safely express grievances. In 1990 two contract teachers and a nurse's assistant at Krome were dismissed after they complained of mistreatment of detainees. James LeMoyné, "Florida Center Holding Aliens Is Under Inquiry," The New York Times, May 16, 1990.

¹¹⁸Hidden from View, *supra*, at 41.

However, the clinic's functions have been improperly subordinated to the demands of the INS. Since 1992, PHS has been used as the housing facility for female detainees. As reported in the June 1996 OIG report, 107 women were housed in the PHS building, of whom 55 were sleeping in cots in the PHS lobby. Overcrowded conditions caused PHS to abandon its normal functions such as medical screenings upon admission and clearances before release.

By early June 1995, the steady increase in Krome's detained population, and particularly the female population, had resulted in a warning from the Public Health Service that the overcrowded conditions were causing urgent health problems at the facility and were interfering with the functioning of the medical clinic. On June 8, 1995 at 9:39 a.m., Dr. Ada Rivera sent a memorandum by electronic mail to [District Director] Cadman and by hard copy to [Krome Administrator] Weiss warning of the serious health consequences of the overcrowded conditions. In addition, Rivera advised that PHS intended to suspend its normal functions (including performing medical screening and clearances) and would provide only emergency services and infirmary care. Dr. Rivera advised that the problem should be urgently addressed to prevent any potential epidemics at Krome.¹¹⁹

The District Director's response to Dr. Rivera was simply to request that she submit more paperwork that would justify the release of detainees for medical reasons. As a result of the INS's urgent desire to parole detainees before the Congressional delegation arrived, detainees were paroled without the required pre-release medical screening.¹²⁰

Sometimes medication prescribed and administered by PHS personnel allows the INS to carry out questionable detention and deportation functions. Detainees often become depressed at Krome because of their long detention, and PHS staff prescribe anti-depressants for them. Detainees have sometimes become so depressed by their long detention that they are unable to present their cases. Attorneys have learned that their clients have been prescribed anti-depressants only because they have obtained their medical records as a result of observing the detainee's sedated behavior.

While PHS's administration of anti-depressants may be medically permissible, it allows the INS to use medication as a substitute for parole. In 1993, a federal magistrate ordered the parole of a female detainee whose prolonged detention had caused her to become so depressed that she was unable to participate in her asylum hearing or in an APSO interview.¹²¹ In this case, the INS preferred increasing doses of anti-depressants -- at great risk to the detainee's health -- to a rational parole policy.

PHS personnel have sometimes administered powerful anti-psychotic drugs, such as Thorazine, to detainees under circumstances in which no one protects the detainee's interests. In October 1991, the PHS staff injected a detainee with extremely large doses of powerful anti-psychotic drugs to carry out his deportation, although he was not diagnosed as mentally ill. While INS and PHS officials denied

¹¹⁹OIG report, *supra*, at 31-32.

¹²⁰*Id.* at 34, 94.

¹²¹Fenting v. Chasse, U.S.D.C., S.D. Fl., Docket No. 92-2371-CIV-DAVIS.

that such drugs were used simply to carry out deportations, INS employees privately concede the opposite.¹²²

In late 1992, the INS mistakenly advised a Chinese detainee that he was going to be deported the next day, which was the day his asylum hearing was scheduled. As a result, he tried to commit suicide. PHS personnel injected him with Thorazine and Benadryl, put him on suicide watch, and tied him to his bed. They woke him up after he had been sleeping for 24 hours and sent him off to his asylum hearing.

Neither PHS nor the INS told the detainee's lawyer or the Immigration Judge about the previous day's events. The Immigration Judge denied the detainee's asylum application, ruling that he had not presented a coherent claim for asylum. In April 1993, a federal judge set aside the deportation order, finding that the detainee had been denied the opportunity for a full and fair hearing.¹²³ The judge found discrepancies between the treating physician's report of the detainee's treatment and INS and PHS records. We are aware of no investigation carried out of PHS's or INS's role in this case.

Detainees complain that INS officials are slow to respond to emergencies and to summon PHS personnel, as indicated in the following:

DUE TO LACK OF RESPONSE ON THE PART OF OFFICERS OVERSEEING THE INMATES, ONE (1) INMATE DIED ON THE FIELD. It was approximately thirty-five (35) minutes before medical help arrived. The doctor attending walked over to the man very nonchalantly, as if attending a dinner rather than an emergency.

* * *

Officers take their time to get what the inmates consider to be an emergency. Their response to our call for help is ridiculously slow, thus the wrongful death [on January 1, 1996] of the inmate on the soccer field.¹²⁴

This is echoed by the following excerpt from the statement of a male detainee:

I . . . watched the Nigerian who died on the soccer field on January 1st. We were playing soccer and . . . he fell down. When that happened, a detainee from Israel and some of us tried to resuscitate him because he was not breathing. . . . About three INS officers were there [on the soccer field] but . . . for about thirty minutes no one [from INS or PHS] help[ed]. When the doctor finally came, he came with empty hands, nothing to help the detainee. So I think he died because he didn't have medical help in time. . . . They don't care here. . . . So we got scared for ourselves. With that, we Nigerians here, we feel very troubled.¹²⁵

¹²²William Booth, "U.S. Accused of Sedating Deportees," The Washington Post, October 7, 1993 (see Appendix B).

¹²³Ho Guo Xiang v. Cadman, U.S.D.C., S.D. Fl., Docket No. 93-0640-CIV-DAVIS (1993).

¹²⁴Grievance letter, *supra*.

¹²⁵February 15, 1996 statement of a male detainee.

Detainees have regularly complained about the adequacy of medical care at Krome, or that certain nationalities are treated better by the medical staff, or that their complaints are not taken seriously. Although these complaints have regularly been made, we are aware of no systematic review of medical records or other investigation to prove or disprove the allegations.

Lack of Access to Basic Necessities and Reading Materials

Detainees have limited access to basic necessities. While they may buy additional items from an outside vendor, the prices are inflated. As a female detainee reported:

Detainees are given toothpaste, toothbrush, bar soap and shampoo [only] at the time of arrival. They can purchase these items at the Center but each item costs double and in some cases triple the cost at the supermarket. . . .¹²⁶

Detainees and their families are not told the rules for bringing in personal items for detainees, or the rules for bringing suitcases with clothing for detainees to take when they are deported. If any such rules exist, they are not applied consistently. Treatment of family members who bring items to their relatives depends on which Krome officer they deal with. Detainees' family members report being given advice on the phone about which items may be brought and the procedure for bringing them, which conflicts with what officers say when they bring the items to Krome.

Nor are there clear rules for bringing outside reading materials to Krome. The following is an excerpt from the affidavit of Gladys Perez, chairperson of the Coalition of Cuban American Women who visits detainees at Krome:

We cannot even bring the detainees radios or newspapers. Even persons in regular jails can have these things.¹²⁷

Krome officials now deny the allegations about reading materials and claim that papers and books may be brought in.¹²⁸ However, in his 1993 deposition, former Krome Deputy Administrator Michael Rozos stated that detainees are only allowed to have a Bible, and that books in a detainee's possession are confiscated during routine searches.¹²⁹ In any event, detention officers at Krome have different understandings of the rules because whether and when such materials may be brought in depend on which officers are on duty.

The absence of clear rules means that detainees are deprived of useful and acceptable personal items and reading material. This is a significant deprivation, because detention is so prolonged and organized activities are so few.

¹²⁶February 15, 1996 affidavit of a female detainee.

¹²⁷March 4, 1996 statement to Cheryl Little.

¹²⁸Cheryl Little affidavit, ¶17.v.

¹²⁹Deposition of Michael Rozos, *supra*, at 257.

Access Denied To Journalists And Human Rights Groups

In late January, District Director Cadman turned down a request by a group of 11 Miami journalists to tour Krome, on the basis that nothing unusual had happened or was happening to warrant this type of coverage.¹³⁰ The group, which included journalists from the Washington Post, the Los Angeles Times, the Miami Herald, Reuters News Agency, and Miami's New Times appealed the decision to INS Commissioner Doris Meissner. Shortly thereafter, detainees released their own written statements, indicating their frustration at their treatment by officers, their long waits for resolution of their cases, their medical treatment by the Public Health Service, and at what they described as unsanitary bathroom conditions.

On April 8 the INS finally granted a group of 5 journalists a sanitized, guided tour of Krome, but none of the journalists who requested a tour was included nor have they received an answer to the appeal to Commissioner Meissner.

Ironically, INS officials typically deny press access when significant events occur at Krome, for example, a hunger strike.¹³¹ Because of this, there are no independent observers to monitor treatment or conditions at Krome at such times.

The denial of access to outside groups is a traditional INS response. In 1991, the Minnesota Lawyers International Human Rights Committee and Physicians for Human Rights criticized the INS for giving the two groups permission to speak privately with detainees there, and then revoking that permission shortly after the group arrived in Miami.¹³²

On January 5, 1993 INS officials refused to permit Olden Polynice, the only Haitian-born professional basketball player in the U.S., to visit Haitian detainees on strike to protest discriminatory parole policy.¹³³

In February 1996 Nicholas J. Rizza, Refugee Coordinator of Amnesty International, wrote to the Miami District Director expressing concerns about detention of asylum seekers, overcrowding at Krome, lack of access by the media, and retaliation against a detainee.¹³⁴ He did not receive an answer.

¹³⁰January 26, 1996 letter from Mark Dow to Walter Cadman (see Appendix A).

¹³¹Andres Viglucci, "159 Stick to Hunger Strike," The Miami Herald, January 5, 1993 (see Appendix B).

¹³²Hidden from View, *supra*, at 49-52.

¹³³Manny Garcia and Lizette Alvarez, "Haitian-born Athlete Tries to Visit Krome," The Miami Herald, January 6, 1993 (see Appendix B).

¹³⁴February 26, 1996 letter from Nicholas J. Rizza to Walter Cadman (see Appendix A).

On several occasions, Franklin Tse, the vice-president of the Chinese Federation of Florida, tried to visit Chinese detainees at Krome. He was never granted access.¹³⁵

The denial of access to outside groups is intended to discourage scrutiny by them and to frighten detainees, as reported by Gladys Perez, chairperson of the Coalition of Cuban American Women:

On March 3 I went to Krome with another Cuban to visit some of the detainees. The conditions to visit were horrendous. They made us wait a full hour, in the cold and rain . . . Then they asked us for all kinds of identification they never asked for before, and refused to let my friend in. This friend has been allowed in before . . . I was told by the detainees that the guards had complained that people shouldn't rally, demonstrate, on behalf of the detainees because if we do it will be worse for the detainees. And they've been telling the detainees inside that because of the picketing, they're going to bring in 300 extra guards.¹³⁶

The denial of access to the media and human rights groups is, under Krome's circumstances, particularly significant. The June 1996 OIG report concluded that INS employees at Krome, the District Office, and the Regional Office tried to hide true conditions at Krome, and then engaged in a cover-up to conceal what they had done. Some of these same INS employees have consistently denied detainees' allegations regarding conditions at Krome.¹³⁷ The arduous task undertaken by the OIG to reconstruct records (because e-mail messages were deleted and documents were not provided) and to document what the INS had done (because INS records were so inadequate) make clear the need for on-going and open access to Krome.

Nigerians Singled Out for Special Discriminatory Treatment

Various nationalities at Krome -- such as Haitians or Chinese -- have contended in the past that they are singled out for discriminatory treatment. African detainees in general, and Nigerians in particular, are simply the latest group to voice this. As stated by Miami attorney Randolph McGrorty:

I think that Nigerians have become the new despised group, or Africans in general . . . I had a staff person at Krome tell me how, well, we don't like to parole . . . Nigerians because they lie, it's part of their culture.¹³⁸

The African detainees feel isolated. They have no community to support them at Krome, as indicated in this excerpt from the affidavit of a male Nigerian detainee:

¹³⁵July 15, 1996 affidavit of Franklin Tse (*see* Appendix A).

¹³⁶March 4, 1996 statement of Gladys Perez to Cheryl Little.

¹³⁷See, e.g., Cheryl Little affidavit, ¶17.

¹³⁸Excerpt from presentation by Randolph McGrorty at Miami Forum on INS Detention, *supra*.

There's a lot of politics going on here in Krome against the Africans. We have no one to fight for us [as the Cubans and Haitians do]. . . . We are being rejected here as we are all over the continent [of Europe]. . . . We are really scared here because our life is just nothing to them here.¹³⁹

A male Nigerian detainee wrote:

[There is] a Lt. -----, who dislikes Africans but hates Nigerians in particular, with a passion. His reason being that Nigerians feel like they know it all and they are a little bit too smart for themselves. These are his words to the Nigerian detainees at Krome.

Lt. -----, has had several encounters with different Nigerians. One of his encounters was with the late Theophilus Adebisi, when he locked [him] up in isolation for 3 days and transferred [him] to a county jail just because he had an argument with another detainee. Lt. ----- sent him to the county jail to punish him after Captain ----- told Lt. ----- to release Adebisi from isolation because he was not charged with any misconduct within 24 hrs in isolation and after spending 3 days there.¹⁴⁰

The same officers named in complaints years ago are still the subject of complaints. In a recent article by Mark Dow, he explains some of the detainees' feelings regarding discriminatory treatment:

The persistent lack of accountability at Krome is as clear as ever. The officer who [recently] targeted [a male Nigerian detainee] has been the object of complaints before. In 1991, Nigerian Tony Ebibillo was among a group of detainees who lined up to show their blue, plastic identification cards to an officer who was checking to see who was eligible for release. When Ebibillo reached the front of the line, he later said, the lieutenant told him 'Get the fuck out of my face... You Nigerians, I can only help you to stay in Krome and not to get out.' (Ebibillo was also targeted by the INS for his resistance, in particular his participation in the hunger strike of August 1991, which brought together detainees of many nationalities. INS successfully deported Ebibillo in December 1993, on a chartered plane which carried 83 Nigerian prisoners.) . . . There are currently nine Nigerians held at Krome according to the INS.¹⁴¹

Krome officials deny that Nigerians or other Africans are mistreated and deny that their guards abuse detainees.¹⁴² Since there is no functioning grievance procedure and detainees fear retaliation if they complain, detainees who are singled out have no means to seek redress of their grievances.

¹³⁹Statement of a male detainee to Mark Dow.

¹⁴⁰February 6, 1996 statement of a male detainee.

¹⁴¹"The Latest Victims of I.N.S. Discrimination at Miami's Krome Detention Center", *Haiti Progrès*, March 1996 (see Appendix B).

¹⁴²Cheryl Little affidavit, ¶17.u.

Conclusions

Krome Service Processing Center remains out of the public eye. The OIG investigation brought attention to the facility. But one of the lessons of the OIG report is that, unless a crisis occurs at Krome, even outrageous conditions and practices there remain unnoticed, unreviewed, and secret.

Some of the most serious problems at Krome, such as overcrowding and the dangers to health and safety, are the result of deliberate INS policies to detain people and to limit their release from detention. INS detention and parole policies have operated in an inconsistent and fundamentally unfair manner, subject to the winds of political change. Other problems at Krome are the result of the absence of clear policy.

We fear that the INS will try to solve its problems by transferring detainees to other facilities, especially county jails, where their treatment will have even less scrutiny. Krome detainees remain largely unrepresented by lawyers, and unable to fairly represent themselves or protect themselves from abuse. There are serious contradictions between detainees' description of conditions and the INS version of conditions, and the traditional INS response has been to deny all accusations.

The only acceptable solution is that Krome, along with other INS detention facilities, must be subject to clear, consistent rules of operation, and there must be independent review of its activities.

3

Recommendations

The Florida Immigrant Advocacy Center recommends that the following actions be taken:

1. Investigation and Oversight

- An independent investigation should be conducted into longstanding complaints regarding Krome.
- Krome, along with other INS detention facilities, must be subject to clear, consistent rules of operation, and there must be on-going independent review of its activities.

2. Access to Counsel

- A *pro bono* project for the representation of Krome detainees should be established.
- The INS should provide a current and accurate list of *pro bono* legal representatives.
- The INS should provide free local telephone service for detainees.
- The INS should provide adequate, soundproof facilities for interviewing clients.
- The INS should provide an adequate law library in accordance with its own regulations.
- The INS should permit attorneys to schedule visits in advance.
- The INS should advise attorneys in advance when their clients are transferred or released.
- The INS should stamp, as received, copies of documents filed at Krome and make available a procedure for faxing documents to Krome.
- The INS should work with community advocates and local attorneys to facilitate adequate representation of detainees.

3. Parole Policy

- The Asylum Pre-Screening Program (APSO) should be fully implemented.
- Parole policy and procedures should be made clear, explicit and should be followed.
- Detention should be the exception, not the rule.
- The INS should parole detainees instead of transferring them to county jails and impeding their right to legal representation.

4. Conditions

- Detainees should be treated fairly and humanely.
- The INS should take immediate steps to correct any conditions which are detrimental to the welfare, safety and security of detainees.
- The INS should release all children from detention.

5. Grievance Procedure

- The INS should establish a meaningful grievance procedure within Krome for detainees, INS officers as well as other on-site employees.
- An independent Citizens' Review Board should be established to address Krome detainees' complaints of mistreatment.

6. Custody Policy

- "Criminal aliens" should not be housed with other detainees.

7. Access

- Journalists, human rights groups, and other concerned parties should have regular access to Krome.

4

Attachments

Appendix A: Affidavits and Letters

1. Affidavit of Cheryl Little, FIAC Executive Director (July 22, 1996) [7pp].
2. Affidavit of Franklin Tse, vice-president, Chinese Federation of Florida (July 15, 1996) [1p].
3. Letter to District Director Walter Cadman from Cheryl Little (April 26, 1996) [2pp].
4. Letter to District Director Walter Cadman from Rev. Thomas Wenski regarding meeting to discuss conditions at Krome. Letter written on behalf of American Friends Service Committee, Asian American Federation of Florida, Catholic Charities of the Archdiocese of Miami, Coalition of Cuban American Women, Haitian Refugee Center, Human Rights in Cuba, Federal Council of Nigerians, Florida Immigrant Advocacy Center, Mennonite Central Committee, Metro Dade County Black Affairs Program, National Association for the Advancement of Colored People, Nigerian American of Yorubaland, St. Thomas University Law School Immigration Clinic, St. Thomas University Human Rights Institute, Pierre Toussaint Haitian Catholic Center, United Methodist Church (Miami District), Catholic Legal Aid for Haitians (March 20, 1996) [2pp].
5. Letter to District Director Walter Cadman from Mark Dow (March 19, 1996) [2pp].
6. Letter to District Director Walter Cadman from Cheryl Little (February 29, 1996) [2pp].
7. Letter to District Director Walter Cadman from Nick Rizza, Amnesty International USA (February 26, 1996) [2pp].
8. Letter to INS Commissioner Doris Meissner from Mark Dow (February 21, 1996) [2pp].
9. Letter to District Director Walter Cadman from Mark Dow (January 26, 1996) [2pp].
10. Letter to Constance K. Weiss, Administrator, Krome Service Processing Center, from Joan Friedland (May 9, 1995) [1p].
11. Letter to Cheryl Little from Christina DeConcini, American Bar Association (January 12, 1993) [with attached letter to Dan Vara, INS Counsel, from Christina DeConcini (including list of questions for INS) (June 13, 1991)] [5pp].

12. Affidavit of Miami attorney, Candace L. Jean (June 3, 1992) [2pp].
13. Memorandum from Gene McNary, INS Commissioner, to INS Regional Administrators, Regional Counsels, District Directors, Chief Patrol Agents, Officers in Charge, and District Counsels, subject "Parole Project for Asylum Seekers at Ports of Entry and in INS Detention" (April 20, 1992) [3pp].
14. Letter to Joan Friedland from Luis R. del Rio, Director, INS Office of International Affairs and Outreach (September 26, 1991) [2pp].
15. Letter to Richard Smith, INS District Director, from Talbot D'Alemberte, American Bar Association (including ABA "Recommendations for Reconstruction of Attorney-Client Meeting Area in Krome Detention Center") (September 20, 1991) [5pp].
16. Letter to Ricardo Inzunza, INS Deputy Commissioner, from Joan Friedland and Beatriz Zúñiga McKey, Miami attorneys (September 12, 1991) [2pp].
17. Letter to Richard Smith, INS District Director, from Joan Friedland on behalf of Beatriz Zúñiga McKey, Esq.; Haitian Refugee Center (Rolande Dorancy; Cheryl Little, Esq.; Evenette Mondesir, Esq.); Jonathan Fried, American Friends Service Committee; Xiaowu Zhang, Esq.; and Randall Sidlosca, Esq. (September 3, 1991) [3pp].

AFFIDAVIT

CHERYL LITTLE, under penalty of perjury, states as follows:

1. I am the Executive Director of the Florida Immigrant Advocacy Center. On April 5, 1996, I toured Krome Service Processing Center. The tour was authorized by Miami INS District Director Walter D. Cadman. Accompanying me on the tour were Assistant District Director for Detention and Deportation Kenneth Powers, Krome Administrator Constance K. Weiss, and Language Specialist Jose Tavernier, along with various detention officers.
2. The population at Krome on the day I visited was about 300, of which 40 were women. 41 nationalities were represented there.
3. Despite statements by INS officials that the Krome population had recently decreased, I was struck by how crowded the men's and women's dorms seemed. Bunk beds were narrow and only a few feet apart. I saw no place to keep personal belongings. Neither the men, women, or minors had any pillows. The overall stark conditions of the housing seemed to exacerbate the overcrowding. While INS officials claim that Krome does not resemble a jail, this was not my impression. The concertina wire, detainee uniforms, barrenness of the facilities, and ever-present guards, make clear this is a jail. Many of the detainees, both male and female, were lying on their beds during my visit, which took place in the daytime, and seemed bored and lethargic.
4. Since the men's dormitory burned down in 1992 the men have been housed in the women's dormitory, and the women have been held in the Public Health Service (PHS) facility. The men's dorm is surrounded by voluminous amount of heavy duty concertina wire. Mr. Powers said that extra wire was installed following Hurricane Andrew when the Bureau of Prisons transferred its prisoners to Krome. The wire has never been removed.
5. The main sleeping area of the men's dorm is a large, rectangular area with an officer station in the center. On either side surrounding the officer station there is a chain link fence or grill from floor to ceiling which separates the room into two halves with the officer in the middle. These fenced in areas resemble large cages. On either side of the officer station are six long rows of bunk beds. These bunk beds are very close to each other. The area is very stark. There are a few small, high windows on both sides. There was no furniture at all in the sleeping area, aside from the beds, a couple of TV's and a couple of small couches. There are six phones in the room.
6. The "recreation room" is the second main sleeping area (past the first sleeping area, described above, and the bathrooms). Lined on each side are bunk beds which are also very close together. The room has a large TV which is in the midst of the bunk beds. The TV was on loud and appeared to be bothering detainees who were lying in their beds. The room had three phones, three vending machines (one for candy, one for sodas, and one for coffee), a refrigerator, and a couple of couches.
7. Off the rec room there are two other small rooms which house the "overflow" or overnight cases. They contain bunk beds which are very close together. Outside of this area there is an open space with some picnic tables and eight phones.

8. I noted seven minors in one section of the men's dorm alone, including a 13 year old boy from El Salvador. Krome officials claim they have no place to put these children because they have run away from Boy's Town or caused other problems and implied they could be at Krome indefinitely. These young boys seemed depressed and many were simply lying on their beds with their eyes closed.
9. The women are held in two separate rooms adjacent to the main waiting room in the PHS building. The larger room contained 18 bunk beds (total 36 beds). The beds were crowded together. The room was very stark and contained no other furniture. There were some small windows across the top. The adult female detainees are housed in this room.
10. Next to this room is an even smaller room where pregnant women and women with children are housed. I noticed one visibly pregnant woman. There were approximately 14 beds in this room.
11. The women's bathrooms are in the area across from their sleeping quarters. Women must walk very near the waiting area (where men and women wait for medical attention) to get to the bathrooms and are visible from the waiting area when they do so.
12. Officials said they were working on improving the bathrooms but that the detainees often intentionally clogged the toilets, creating their own mess. Mr. Powers admitted that the bathrooms the men were using were not designed for men as they are in the women's dorm where the men are now being housed. Similarly, one of the bathrooms the women must use is a men's bathroom.
13. I did not observe the detainees engaging in activities other than some men playing soccer. There were one or two officers monitoring them. I saw 2 small religious gatherings. There are minimal activities for the women.
14. The isolation (segregation) area I was shown consisted of seven very tiny cells. I saw one cell which had one bunk bed (two cots), a small toilet, sink, fluorescent ceiling light, and nothing else. There was no window. The cell had a linoleum floor and was very dirty. I was told the other isolation cells are identical to the one I saw.
15. The PHS area of Krome consists of a general waiting room, a pharmacy which (according to PHS officials) is open 8 hours a day (Monday-Friday), an emergency room, four offices for patients, an EKG room, a six-bed respiratory isolation unit, and an infirmary.
16. The "law library" is located in a separate building next to the soccer field. The building referred to as the law library consists of two rooms, one where classes are supposedly given and one smaller room which has a file cabinet in the corner which contains the only law books in the building. These books include only the following: 17 dated Shepards, 6 dated U.S.C.A.'s, 6 dated Immigration Law and Procedure guidelines, a dated Amnesty International report on Haiti, and 2 dated Washington Office on Haiti reports. There were no detainees in the building when I visited.
17. I was told the following by INS officials during my tour.
 - a. The terms "segregation" and "isolation" are used interchangeably. The cells are used primarily for criminal aliens in transit or those posing a threat to themselves or others or

those with disciplinary problems. Cells were also often used for protective custody, e.g., to protect detainees from other detainees. There is one bunk bed (two cots) per cell. The maximum time in segregation is generally 72 hours, with automatic review by a Krome panel within 24 hours. Criminal aliens could remain in segregation longer than 72 hours. Detainees are allowed outside for exercise daily. I advised them that non-criminal detainees routinely complain they were arbitrarily placed in isolation, do not have a hearing before a panel, and often are not allowed outside for daily exercise.

- b. Mrs. Weiss said there were about 30 phones at Krome which are checked every day to make sure they are in working order. Most of the phones are for collect calls only, a few are coin phones. One of the four phones INS officials checked on my tour was not in working order.
- c. Administration officials said they had a law library which the detainees should be aware of, although they admit detainees are not informed of the library's existence. After the law library burned down in 1986 District Directors Perry Rifkin and Richard Smith instructed there would no longer be a law library inside the men's dorm -- where library had been located -- because books and other paper create a fire hazard. Mrs. Weiss stated that recently the INS came out with a list of "standard stuff" they should have in the library, and that she has ordered everything on the list, along with this years 8 CFR. Mr. Powers commented that he had brought a couple of boxes of books for the law library which were a couple of years old. When we were in the "law library" and he realized these books were not there, he asked "where were they?" No one knew the answer. The building called the law library contains an organ and I was told Church services and classes take place there. An officer in the building said that there had been a detainee librarian in charge of checking out books, but he had been deported.
- d. Religious services are conducted every Thursday night.
- e. Dade County Public Schools no longer conduct classes at Krome. According to Mrs. Weiss, there are two teachers who teach English to detainees on an *ad hoc* basis.
- f. The processing area of Krome includes a room with detainees' supplies. I was shown a bedroll that all detainees supposedly get upon arrival, which consisted of one worn blanket, one worn towel, and two worn sheets. Mrs. Weiss stated that detainees also receive a little bag containing one small tube of toothpaste, one toothbrush, a bar of soap, and deodorant. Maxi pads for women were also in the storage area. Mrs. Weiss said that when the detainees run out of these items they can ask for more. I pointed out that detainees complain they often cannot get these items replaced when they run out, and they are forced to buy them -- at inflated prices, from someone who comes to Krome. Mrs. Weiss said they do sell these items to detainees in vending machines for reasonable prices, and that detainees' families can bring the detainees shampoo and the like in plastic bottles, as well as socks and underwear.
- g. Detainees' uniforms and sheets are changed twice a week. I advised officials that detainees complain they are often only changed once a week.

- h. Detainees work for one dollar a day in the laundry room, cafeteria, grounds, bathrooms, and doing other general janitorial duties. According to Mrs. Weiss, although the INS is only allowed to pay them a dollar a day, they get "a lot of favors".
- i. Mr. Powers said that the average length of time detainees spend at Krome is about 25 days and they process about 10,000 people a year. On occasion some detainees, e.g., Haitians, Nigerians, Lebanese, Cubans, Indians, Pakistani's, are "here over a year". Mr. Powers and Mrs. Weiss are in favor of the APSO interviews, because it weeded out detainees without credible asylum claims, and so they unsuccessfully fought to keep them. APSO interviews stopped about three years ago, but every now and then INS Assistant District Counsel Elena Stinson would do a "special case".
- j. Parole now is available to detainees with immediate relatives in the US who can sponsor them (e.g., parent, spouse, sibling). It is also available to sick detainees, pregnant women, or if it is in the public interest, e.g., if Krome is too crowded. Children are not supposed to be at Krome (although I noticed several children in blue uniforms in the men's dorm). A lot of unaccompanied children are picked up at the airport.
- k. Mr. Powers said that detainees are often bothered when they see certain groups like Cubans quickly paroled. He also said that many detainees spend a long time at Krome because they fight deportation and appeal their cases.
- l. Krome officials said they frequently transfer detainees to reduce Krome's population. These transfers are to jails within Florida. Transfers within Florida are limited to detainees who have no hearings scheduled for a while or whose cases are on appeal. INS uses the Monroe County Jail if cases are on appeal. Transfers to Louisiana or Texas need a change of venue. Most inmates in the County Jails are criminals. The bulk of non-criminal aliens sent to criminal jails like Fort Lauderdale are sent there for disciplinary problems or other reasons and "we can bring them back quickly from Fort Lauderdale if they have to appear in court." I said it is almost impossible for the detainees to get legal help in these County Jails and that even if their case is on appeal they generally need legal assistance. In response, Mr. Powers said they need to create space for incoming people, but that if we can identify who needs legal help perhaps they can arrange something to prevent those transfers. He also said that usually the people they transfer have been at Krome for six to eight months.
- m. Krome administrators stated that there is a grievance procedure in place, and that detainees should be aware of it although they do not inform them of such a procedure. Mrs. Weiss said that the "Detainee Request Form" is the detainees' grievance form. Mr. Powers said that most detainees do not fill the form out, they just tell the officers what they need and the officers tell the supervisors. This form goes to the Chief Detention Officer or Vincent Intenzo or Mrs. Weiss. The form is in English only and must be obtained from an officer in the dorms. Mrs. Weiss stated that they received hundreds of such forms since last year, but have received no complaints about officers physically or sexually abusing the detainees. If there is a specific complaint about a guard abusing a detainee, Mrs. Weiss said they would talk to the "alien" and if it was a serious complaint they would check out the credibility of the complaint and forward it to the OIG. Mr. Powers said that under such circumstances he

would generally instruct that the officer in question be removed from Krome immediately, while the investigation is ongoing, and that he would notify the District Office. Mr. Powers said they were required to report such allegations to the Inspector General's Office.

- n. Mr. Powers said that when Cuban detainees were at Krome last year they set up detainee grievance committees for them, and INS would look into setting them up again.
- o. "Criminal aliens" are a transit population at Krome, and are generally brought in for hearings. Although INS tries to house them in the isolation wing, they sometimes are mixed in with the general population because there is no room in isolation. INS officials have never wanted to hold criminals at Krome but were forced to. The criminal aliens at Krome have already served their time, and if it were not for their immigration status they would be on the streets. They are brought to Krome so INS can "work their cases." The bulk of the population at Krome now is non-criminal, and even the criminal aliens there now "are not the worst." "Mariel Cubans were the worst and took advantage of everyone."
- p. Attorney visitation hours are 7 a.m. to 10 p.m., seven days a week. Family visitation hours are Saturdays, Sundays and holidays 8 a.m. to 4 p.m. When I informed Mrs. Weiss that attorneys frequently experience problems visiting with their clients in a timely fashion, she responded "that did not happen" and that they have a new P.A. system that works very well. Mrs. Weiss also said they now have a voice mail system and brief messages left for the detainees are posted in the bulletin boards in their dorms. I advised her that attorneys still complain of the difficulty or impossibility of getting messages to their clients. I asked whether attorneys could pre-schedule client appointments, to avoid waiting for clients. Mr. Powers said although the manpower situation is not good, they will look into it. In response to my complaints that there were often no chairs in the attorney visitation areas, Mrs. Weiss said that this was not true. However, when we went to the visitation area, there were no chairs in one attorney booth and only one chair in the three other small booths.
- q. Mrs. Weiss said there should be some sort of public defender's system for the detainees at Krome and admitted that most of the detainees have no attorneys. I said it was much easier for detainees to get a lawyer once they are paroled.
- r. Krome officials deny allegations that criminal aliens are sexually assaulting non-criminal aliens (especially Chinese detainees) at Krome. Mrs. Weiss said if this were happening, they would know about it because "the Chinese are very aggressive, are very emotional, very vocal and would be protesting to the rafters." She added "the things people will say to get some attention". She said that sexual assaults and rape of detainees "goes on whether there are felons there or not". There were 19 Chinese detainees at Krome during visit. There are no Krome officials who speak Chinese, and, according to Mrs. Weiss, they hire interpreters when necessary.
- s. Krome officials denied allegations that there was a delay in getting medical attention to "Theo", a Nigerian detainee who died in January, 1996. Dr. Rivera from PHS said someone from PHS was on the soccer field to assist the collapsed detainee within minutes, and Mrs. Weiss said that INS officers were commended in writing for their quick response. Mrs.


Weiss and Mr. Powers said that the Metro-Dade paramedics arrived 15 to 20 minutes after the Nigerian's collapse, that he was breathing when he left Krome, and died after he got to the hospital. Dr. Rivera stated that a medical provider was called by INS after Theo collapsed and told that a detainee might be having a seizure. She said Theo collapsed at 9:00 a.m. and that at 9:05 a.m. a nurse's aide and an RN were performing CPR on him. She herself arrived on the scene at 9:15 a.m. She said the medical personnel who arrived on the soccer field to attend to Theo did not have any medical equipment because they were told it was a cardiac arrest and what they needed to do was CPR. Mr. Powers added that they have never had a death at Krome, although they have had some "close calls." [If a detainee dies after being taken off the Krome facility, his death is not counted as a death at Krome.] Eyewitnesses on the soccer field on January 1, 1996 claim it was 30 to 35 minutes before anyone other than the detainees provided medical attention to Theo, and that it was the detainees who attempted to provide CPR to Theo. When I mentioned the complaint that INS officials had not even said they were sorry when informing Theo's partner of his death, Mrs. Weiss responded "did she tell you we paid Theo's funeral expenses", and "called all over for the next of kin".

- t. In response to Bariu Ope-Agbe's allegations that he had been transferred because he spoke with the press and was physically assaulted by several officers prior to his transfer, Mrs. Weiss responded that Bariu had "never lodged a complaint." She said Bariu was deported. Mr. Powers said that a lot of paperwork had been done on this case.
- u. Krome officials deny that Nigerians or other Africans are mistreated and deny that Krome guards abuse detainees. In response to specific complaints against Lt. _____, Mr. Powers noted that _____ was a very "devout Christian" and that he could not imagine him abusing anyone. Mr. Powers added that _____ was in a serious car accident a while back and that in his condition he would not be capable of abusing the detainees. I pointed out that most of the alleged abuse regarding this particular officer was psychological abuse. Mrs. Weiss said that _____ is part of the administration and implied that he therefore would not be abusing the detainees. She also noted that there were two officers with the same last name I mentioned working at Krome. I noted we had been told that it was Lt. _____ who was abusing the detainees.
- v. I told Krome officials that Gladys Perez, Chairperson of the Coalition of Cuban American Women, and others have complained that when they visit the detainees on the weekend they are not allowed to give detainees newspapers, books or radios. Mrs. Weiss said that they do allow visitors to bring in papers and books, however radios are not allowed because they cause a disturbance, and detainees steal them. She said that families can also bring money for the detainees but not food.
- w. Mr. Powers stated that the majority of officers treat the detainees with respect, and if he thinks there is a problem he pulls the officer out right away. He said that he could not get the final report from the FBI regarding the 1990 allegations of abuse at Krome but that some of the guards who allegedly abused detainees during the time of the investigation no longer work there. They are in jail or were fired by INS. He said there were currently 120 detention

officers at Krome, and you are bound to have an "oddball or two" but they try to weed out those individuals as soon as possible.

- x. Dr. Rivera (PHS director) said that detainees can request sick call seven days of the week and that sick call request slips, which are in different languages, are picked up every morning. She said there is access to PHS twenty-four hours a day, with physicians on duty during the day and a mid-level nurse practitioner on duty at night. The initial screening of detainees is done by an RN or nurse practitioner. PHS staff only speak English, Spanish, French and Creole, but PHS gets interpreters if necessary. Emergency dental care is available Monday through Friday with dental screening upon arrival and some referrals to Jackson Memorial Hospital. There is a contract with an outside lab and PHS does X-rays (mostly chest X-rays). Every detainee is screened upon arrival for TB and to determine whether they are on medication. No HIV screening is done unless indicated, and then only with the detainee's consent. Each detainee is medically screened before being paroled so they are held for a minimum of 48 hours after granted parole.

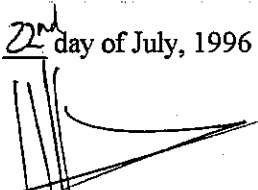
I hereby swear under penalty of perjury on this 22nd day of July, 1996 that the above is true and correct to the best of my knowledge and recollection.



CHERYL LITTLE

STATE OF FLORIDA)(
COUNTY OF DADE)(

SUBSCRIBED AND SWORN TO before me this 22nd day of July, 1996 by Cheryl Little, known personally to me.



NOTARY PUBLIC

OFFICIAL NOTARY SEAL
ESTHER OLAVARRIA CRUZ
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC246599
MY COMMISSION EXP. DEC. 16, 1996

Affidavit

My name is Franklin Tse. I am Vice-President of the Chinese Federation of Florida and Chairman of the Asian American Federation of Florida. Upon learning of the presence of Chinese detainees at Krome, I and others in my group wished to visit with them in our effort to help them. I have tried on several occasions to gain access to Krome. Phone calls I made to administrators were never returned, and all attempts I made to find out how to gain access to the Chinese detainees failed.

Out of concern for the Chinese detainees and a general duty to serve the Chinese community here in Florida I called the Director of Krome Detention Center, Kathy Weiss, several times to express to her that the Asian community is willing to assist the INS in providing appropriate care for its detainees. I hoped that INS would welcome our assistance, however, Ms. Weiss has yet to return my calls and I have still not been allowed to visit or assist the Chinese detained at Krome.

I hereby swear under penalty of perjury on this 15 day of July, 1996 that the above is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read 'Franklin Tse', with a horizontal line drawn underneath it.

Franklin Tse, P.E.

Vice-President, Chinese Federation of
Florida

Chairman, Asian American Federation of
Florida

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April 26, 1996

VIA FAX: 5 pp. (fax. 305-530-7978)

Walter Cadman
District Director
Immigration and Naturalization Service
7880 Biscayne Blvd.
Miami, FL 33137

Dear Mr. Cadman,

I have been meaning to write you, but was on vacation recently. Thank you for taking the time to meet with me a few weeks ago and allowing me to tour Krome. Both the meeting and tour were very helpful. I was especially pleased to hear of your commitment to putting an effective grievance procedure in place at Krome and working to establish a Citizens Review Board.

Since my visit to Krome, however, I am even more concerned about the detainees' lack of access to counsel and the lack of an effective grievance procedure. Ms. Weiss and Mr. Powers told me that APSO interviews had not been conducted for about three years, and there is no law library at Krome. The "law library" I was shown consisted solely of the following books, which were in a closed file cabinet in a corner of an empty building: 17 dated Shepards United States Citations, 6 dated U.S.C.A.'s, 6 dated Immigration Law and Procedure books, one dated Amnesty International report on Haiti and 2 dated Washington Office on Haiti reports. Also, Ms. Weiss considers the grievance procedure to be reflected in the all-purpose form entitled "Detainee Request Form," which contains no instructions in Spanish, and which does not mention the existence of a grievance procedure, the steps to follow, or that this is the form to use in making a grievance. Mr. Powers did say that they would look into re-instituting the grievance procedure in effect when Cuban detainees were held at Krome last year.

I am also concerned about the welfare of several young male minors (about 10) who were housed with the adult male population, most of whom were simply lying in their bunk beds at the time of my visit. Ms. Weiss told me that certain minors with behavior problems such as these boys could be held indefinitely at Krome. Additionally I am concerned about the isolation cells, which have no window and whose only furniture is a small bunk bed, a toilet and wash basin.

Even though I believe Krome was less crowded when I visited on April 5th than earlier this year, I was struck by how little space and privacy the detainees have. This is particularly true for the women, whose tiny dorms and bathrooms are in close proximity to the PHS waiting room area. In order to get to their bathrooms, or if they step outside their dorms, the women in fact are in full view of the male detainees needing medical attention. Housing the women in PHS, where both male and female detainees regularly go for medical help, is most troubling.

District Director Walter Cadman
Page 2 of 2
April 26, 1996

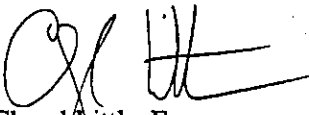
As the INS itself noted, in its Interim Report on the Elizabeth, New Jersey Contract Facility (ESMOR report), problems such as those listed above clearly should be corrected. Since you mentioned that you had not seen a copy of this report, I am putting a copy in the mail for you.

When we last spoke you recognized that Krome was overcrowded and said you would be recommending a reasonable population cap at Krome. Reducing Krome's population would involve transferring detainees to facilities where it will be virtually impossible for them to get legal help. As I pointed out during our meeting, parole rather than transfers is the fair and humane response. You also mentioned during our meeting that you would see if it was possible to get the APSO program up and running again. During a recent meeting regarding detention issues convened by the US Commission on Immigration Reform, we were told that a full fledged commitment to the APSO program will soon be announced and that access to counsel was an important issue.

Attached is a copy of written comments regarding detention issues which I submitted at the request of the US Commission on Immigration Reform. I would very much like to meet with you to further discuss these issues and certain additional issues arising from my Krome visit.

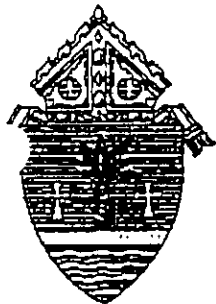
Thank you again for taking the time to meet with me. As I pointed out at the Commission meeting, I do believe that you have worked to substantially improve conditions at Krome. I look forward to hearing from you soon.

Sincerely,



Cheryl Little, Esq.
Executive Director

CL/mms/LTR-CADM.A26



CATHOLIC CHARITIES

Archdiocese of Miami

9401 Biscayne Boulevard
Miami Shores, Florida 33138
Telephone: (305) 754-2444
Telefax: (305) 754-6649

CARITAS

Rev. Thomas G. Wenski
Archdiocesan Director

March 20, 1996

Mr. Walter Cadman
District Director
Immigration and Naturalization Service
7880 Biscayne Boulevard
Miami, FL 33137

Dear Mr. Cadman:

It has come to our attention that many detainees at the Krome North Service Processing Center have lodged complaints about their treatment. We also understand that many detainees at Krome have been there for several months.

We would like to meet with you to discuss:

- 1) The conditions of detention and treatment of detainees at Krome, and
- 2) The Krome parole policy.

We look forward to your prompt response. Please contact Cheryl Little at: (305) 573-1106, x100.

Sincerely yours,

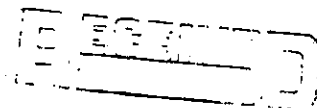
Reverend Thomas Wenski
Archdiocesan Director
Catholic Charities and
Member of the Board of Directors
Florida Immigrant Advocacy Center, Inc.

On behalf of:

American Friends Service Committee, Amada Orendain, Esq.
Asian American Federation of Florida, Kee Juen Eng
Catholic Charities of the Archdiocese of Miami, Father Thomas Wenski
Coalition of Cuban American Women, Gladys Perez
Haitian Refugee Center, Guy Gerald Victor
Human Rights in Cuba, Gisela Hidalgo
Federal Council of Nigerians, Joseph Obadeyi
Florida Immigrant Advocacy Center, Cheryl Little, Esq.
Mennonite Central Committee, South Florida Program, Brad Ginter

Page 2.

Metro Dade County Black Affairs Program, John Due, Esq.
National Association for the Advancement of Colored People, John Due, Esq.
Nigerian American of Yorubaland, Inc., Emmanuel Onabanjo
St. Thomas University Law School Immigration Clinic, Peter Margulies, Esq.
St. Thomas University Human Rights Institute
Pierre Toussaint Haitian Catholic Center, Inc., Randy McGrorty, Esq.
United Methodist Church, Miami District, Rev. Frank Smith
Catholic Legal Aid for Haitians, Marisol Zequeira-Burke, Esq.



Mark Dow
735 14th PL #3
Miami Beach FL 33139
(305) 674-0298

March 19, 1996

Mr. Walter Cadman, District Director
Immigration & Naturalization Service
7880 Biscayne Blvd.
Miami FL 33137

Via Fax (305) 530-7978

Dear Mr. Cadman:

In the last few weeks, in the course of writing articles about INS detention, I have spoken to a number of Krome detainees of various nationalities. Based on what I have heard, I am extremely concerned about the safety of the detainees.

First, rape and physical threats of asylum-seekers by so-called "criminal detainees" are reportedly taking place at Krome. I have been told that asylum-seekers and others in INS custody with no criminal history are being housed together with men who have served time for violent crimes and are now awaiting deportation by the INS. As a result of this living situation, asylum-seekers spend the nights in fear for their safety.

In particular, I have heard allegations that detainees have raped other detainees in the men's restrooms, though INS guards are not far away (which is not to say they are necessarily aware of what is happening). Chinese asylum-seekers may be the primary victims of these attacks, and because there is apparently no Chinese-speaking interpreter in the living areas, they are unable to report these incidents to anyone in a position of authority.

Second, on February 19, 1996, an officer Gonzales reportedly went into a men's dormitory area "shouting [and] boasting." I was told that Gonzales took down his own pants and "asked if we're man enough to fuck his ass . . . [if not] he'll fuck our ass." A second officer who accompanied Gonzales challenged detainees by asking "anyone who calls himself a man" to come forward. There were reportedly some 70 witnesses to this incident.

Third, in separate conversations, two detainees have named Lt. Frank Ferguson -- a supervisory detention officer, I believe -- as being verbally abusive to Nigerian detainees. Lt. Ferguson has reportedly provoked the Nigerians without cause, and singled them out with threats that he will transfer them to other jails and have them deported, regardless of the status of their cases. These allegations echo others made to me against Lt. Ferguson by a Nigerian held at Krome about five years ago.

I would be happy to answer any questions you might have about these allegations. Often detainees have asked to remain anonymous, out of fear that INS officers will retaliate against them for speaking out. Nevertheless, I hope you will use your wide discretionary power to correct these situations, and to protect the men and women in your custody.

Finally, I would like to take this opportunity to renew the request made to you in January on behalf of a group of eleven writers and photographers (listed below) for a tour of Krome. It seems obvious that your previous justification for denying us access -- that "nothing unusual has happened or is happening to warrant this type of coverage," as spokesperson Lamar Wooley put it on January 25th -- is not valid.

Thank you for your attention to these matters.

Sincerely,

Mark Dow

cc:

Commissioner Doris Meissner
Attorney General Janet Reno
Office of the Inspector General
Congresswoman Carrie Meek
Congresswoman Ileana Ros-Lehtinen
Senator Bob Graham
Senator Connie Mack
Archdiocese of Miami
Amnesty International Refugee Office
American Civil Liberties Union
Human Rights Watch Americas

Elise Ackerman, *New Times*
William Booth, *Washington Post*
Mike Clary, *Los Angeles Times*
Mark Dow, *Haiti Progrès*
Susan Greenwood, Gamma-Liaison
Photo Agency
Brook Larmer, *Newsweek*
Meg Laughlin, *Miami Herald Tropic Magazine*
Mireya Novo, Freelance
Paula Park, *Daily Business Review*
Tony Savino, JB Pictures Ltd.
Julie Vorman, Reuters

Media pool applicants:

*Florida Immigrant Advocacy Center, Inc.
3000 Biscayne Blvd, Suite 400
Miami, Florida 33137*

FAXED

♦ tel: (305) 573-1106 ♦ fax: (305) 576-6273

VIA FAX: 2 pages (f. 305-530-7978)

February 29, 1996

Walter Cadman
District Director
Immigration & Naturalization Service
701 SW 27th Avenue, Suite 1400
Miami, FL 33135

Dear Mr. Cadman,

I am writing to express my concern over several issues which have recently come to my attention:

First, it seems that the parole policy at Krome is much stricter now than previously during your term as Miami's District Director. Many detainees and/or their attorneys report that INS is routinely detaining individuals seeking political asylum for months, and ignoring legitimate requests for parole under the APSO program and the INS regulations. It also appears that detainees from Nigeria are subject to particularly harsh treatment, and are not granted parole unless and until they have been granted political asylum or some other form of relief. This is a violation of our laws, which require decisions to be made without regard to race or national origin.

Second, a number of detainees and their lawyers have told me that conditions at Krome are far from adequate. Indeed, over 150 detainees of different nationalities signed a letter of complaint addressed to you on January 29, 1996, outlining their basic concerns. These concerns included reference to a January incident regarding a Nigerian detainee who collapsed on the soccer field and went without medical attention for at least half an hour prior to his death.

Third, several of the detainees who signed the letter of complaint about conditions at Krome report that after portions of the letter appeared in the *Miami Herald* certain guards verbally insulted them and threatened them with transfers or deportation. Indeed, Barry Ope-Agbe was transferred to the Monroe County jail shortly after his name appeared in the *Herald* story. Mr. Ope-Agbe claims that he was badly beaten by certain officers just prior to his transfer, and that several persons witnessed this incident. See attached. Moreover, the same few guards we heard serious complaints about years ago are apparently again targeting detainees for abuse.

Walter Cadman
Page 2
February 29, 1996

Finally, journalists seeking to visit Krome in recent weeks have been denied access with no apparent justification. The journalists have appealed the decision and are awaiting your response. Similarly, requests for access by refugee advocates have been turned down. Joan Maruskin, for example, who is a United Methodist minister and coordinator of an interfaith non-profit coalition for immigrants' rights, was denied access to Krome earlier this month and apparently heard from an INS official that "no one would be getting access to Krome." Ms. Maruskin has had access to many other INS detention facilities in the U.S.

Shortly after your arrival in Miami you met with a group of us and expressed your intent to implement fair parole procedures and to make Krome as accessible as possible to the press and human rights groups. I have long welcomed your presence as Miami's District Director and believe that you have done much to improve the situation facing those in INS detention. I am therefore bringing the above concerns to your attention in the hope that you will meet with me very shortly to further discuss these matters.

I look forward to hearing from you. Please note that while I am no longer working for Florida Rural Legal Services, my phone and fax numbers are the same.

Sincerely,



Cheryl Little, Esq.
Executive Director
(305) 573-1106, x100

CL/mms

February 26, 1996

National Refugee Office: (415) 291-0601
FAX number: (415) 291-8722

Mr. Walter Cadman
District Director
Immigration and Naturalization Service
7880 Biscayne Blvd.
Miami, FL 33131

via fax

Dear Mr. Cadman:

I write to express concern about recent reports concerning Krome North Service Processing Center. We have been sent a petition from detainees concerning overcrowded conditions at the facility. News reports and information from other sources confirm that the population is indeed in excess of capacity. In addition, word is that access to the facility has been denied to reporters and others.

Amnesty International concerns itself with the detention of undocumented migrants who are asylum seekers. We urge authorities to provide accurate information to asylum seekers or would-be asylum seekers and to allow advocates free access to groups of detainees. We object to any restrictive measure which might obstruct access to an asylum procedure. We believe that these principles are in accord with international standards for the treatment of asylum seekers. We also believe that the governments should justify the detention of any asylum seekers through a judicial or quasi-judicial procedure. Thus we have endorsed the use of the APSO interviews for persons in exclusion proceedings. While not strictly meeting international standards, APSO interviews are a step in the right direction.

As you may recall, you and I spoke over a year ago, during the time of a significant influx of migrants to Miami. Many thanks again for your thoughtful and prompt response to my draft of notes on our visit to your office. At that time, you expressed a willingness to interact with community representatives concerning conditions and access at Krome. Your staff allowed the media into the facility to visit with Cuban detainees, and filmed reports appeared on the evening news. Recent reports to us, however, allege that you have denied access to Krome to reporters who have sought it.

The most disturbing report we have received, however, concerns a Nigerian national, Ope-Agbe A. Bairiu. Word is that after his name appeared in a Miami Herald story about Krome, the Service transferred him to Monroe County jail.

[Page 62]

He apparently alleges that he was beaten prior to his transfer.

Amnesty International's working rules prevent me from inquiring as to the mistreatment Mr. Bairiu claims he received. This information will be sent to our International Secretariat in London for their review. My office does, however, view with grave concern any allegation of retaliatory action directed against an asylum seeker or a person detained with them. Such actions by authorities can discourage persons from filing or pursuing claims for the protection of the United States. A transfer to a remote location of a detainee in the circumstances described to us sends the wrong message to other detainees and to the public.

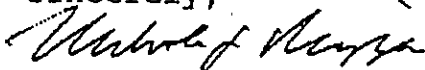
We respectfully request that you let us know what criteria is used to select a detainee for transfer to another site, what information is provided to all detainees about the asylum system, whether or not requests for an APSO interview are honored consistently, and what mechanism exists for processing detainee complaints.

In addition, if access to Krome has been denied to reporters and others, we question why this has occurred at a time when concerns about conditions there have been expressed publicly by detainees, by advocates and in the media.

Amnesty International takes no position on the veracity of the information we've received. But we do urge you to allow greater access to Krome to advocates and to the media. While our office cannot prescribe the correct formula, we are sure that if the INS works with non-governmental organizations (NGOs) as you suggested to me might be the case, both parties will benefit. Both NGO expertise and yours can combine to more efficiently identify those persons who need legal assistance, who are suffering from post-traumatic stress disorder, and who might merit release under the APSO program or a similar system.

Amnesty International believes that in its treatment of the undocumented or others who are out of status, the United States has a special obligation to asylum seekers. We assume you agree and look forward to your response.

Sincerely,



Nicholas J. Rizza
Refugee Coordinator
Amnesty International USA

n:\refugee\detentio\cdman296.doc

735 14th Place #3
Miami Beach FL 33139
(305) 674-0298

February 21, 1996

Commissioner Doris Meissner
Immigration & Naturalization Service
425 Eye St., NW
Washington, DC 20536

Via Fax (202) 514-3296

Dear Commissioner Meissner:

This letter is to request access to the Krome North Service Processing Center. Miami District Director Walter Cadman has denied our request for a media tour.

On October 25, 1994, writer Mark Dow requested a tour of Krome for himself. INS Public Affairs Spokesperson Lamar Wooley responded that, aside from one-on-one interviews with detainees in the visitation area, access is only granted "on a pool basis." He explained that a tour would take place when there was enough of a push for it.

On January 23, 1996, Mr. Dow wrote to Mr. Cadman again, this time requesting a "pool tour" on behalf of our group. He explained that we would like to speak with a variety of detained persons as well as with officers working at Krome, and to see the living areas, recreation areas, health clinic, cafeteria, segregation/isolation areas, and courtrooms. Two days later, on January 25, Mr. Wooley called to say that this request had been denied as well. He said that "[t]he District Director does not feel [a tour] is warranted at this time. . . . At this time nothing unusual has happened or is happening to warrant this type of coverage."

The next day, January 26, we wrote again to Mr. Cadman, asking that he reconsider his denial. As of this writing, we have received no response to that letter.

Unfortunately, the Krome detention center has a long history of denying access to the media and to independent fact-finding groups. The Minnesota Lawyers International Human Rights Committee even entitled its April 1991 report on Krome "Hidden from View: Human Rights Conditions at the Krome Detention Center." A number of us have been individually denied access to Krome at different times. It seems clear that the District Office is simply inventing justifications to deny access consistently.

Mr. Wooley said that "nothing . . . is happening to warrant" coverage of Krome. We hope you will agree that, aside from *legitimate* security concerns, it should not be up to the government to decide when the media has a reason to look closely at a taxpayer-funded federal facility. Moreover, those of us who have watched Krome over the years know that when something *is* happening to "warrant coverage" (such as a hunger strike by the detainees), that the District Office typically uses that as a reason to deny access, not to grant it. Incidentally, since Mr. Wooley's statement that nothing is happening at Krome, detainees have released their own written statements, indicating their frustration at their treatment by officers, their long waits for resolution of their cases, their medical treatment by the Public Health Service, and at what they describe as unsanitary bathroom conditions.

We mention these complaints to bring them to your attention. But let us say again that whether or not anything "is happening," we believe that we have the right of access to Krome. We would like to see it for ourselves. We hope that you will consider our request for a tour.

Thank you very much. We look forward to your response.

Sincerely,

Elise Ackerman, *New Times*

William Booth, *Washington Post*

Mike Clary, *Los Angeles Times*

Mark Dow, *Haiti Progrès*

Susan Greenwood, Gamma-Liaison Photo Agency

Brook Larmer, *Newsweek*

Meg Laughlin, *Miami Herald/Tropic Magazine*

Mireya Novo, Freelance

Paula Park, *Daily Business Review*

Tony Savino, JB Pictures Ltd.

Julie Vorman, Reuters

cc: District Director Walter Cadman
Amnesty International Refugee Office
American Civil Liberties Union

735 14th Place #3
Miami Beach FL 33139
(305) 674-0298

January 26, 1996

Mr. Walter Cadman
District Director
Immigration & Naturalization Service
7880 Biscayne Blvd.
Miami FL

Via Fax (305) 530-7978

Dear Mr. Cadman:

I am writing to ask that you reconsider your denial of our request for a media pool tour of Krome.

Mr. Wooley left me a message yesterday, explaining that you do not feel such a tour is "warranted" right now since "nothing unusual has happened or is happening" at Krome.

My own feeling is that such a tour is warranted simply because eleven writers and photographers have requested it, and because Krome is a taxpayer-funded facility. And, as I indicated in my letter of January 23, Mr. Wooley had explained to me that a pool tour would take place when there was enough of a push for it. Opening the facility to our group would be a way of opening it to the public eye.

Again, I hope you will reconsider your decision, and we look forward to your response.

Sincerely,

Mark Dow

cc: Elise Ackerman, *New Times*
William Booth, *Washington Post*
Mike Clary, *Los Angeles Times*
Susan Greenwood, Gamma-Liaison Photo Agency
Brook Larner, *Newsweek*
Meg Laughlin, *Miami Herald/Tropic Magazine*
Mireya Novo, Freelance

Paula Park, *Daily Business Review*
Tony Savino, JB Pictures Ltd.
Julie Vorman, Reuters

INS Commissioner Doris Meissner
Amnesty International Refugee Office

FRIEDLAND & McKEY
ATTORNEYS AT LAW
1570 MADRUGA AVENUE
SUITE 216
CORAL GABLES, FLORIDA 33146

TELEPHONE: (305) 665-1557
FAX: (305) 665-0556

JOAN FRIEDLAND
BEATRIZ ZÚÑIGA McKEY*
*ADMITTED IN TEXAS

HAND DELIVERED

May 9, 1995

Constance K. Weiss
Administrator, Krome Service Processing Center
18201 SW 12th St.
Miami, FL 33194

Dear Mrs. Weiss:

I am writing to bring to your attention a problem which occurred at Krome on May 2. I sent documents to the Immigration Court by Federal Express, to be delivered prior to 10:30 A.M. on May 2. The package was addressed to the Office of the Immigration Judge and was signed for at the front desk at 10:39 A.M. (I am not complaining about the delivery delay caused by Krome's security needs).

However, the package was then neither delivered to the Court, nor was anyone in the Court notified to pick it up. The package just sat in the lobby until I called the Court about 1:30 P.M. to check on the outcome of my request. Court personnel advised me they had not received my documents, and that the judge had already ruled against my client. They then located the package in the lobby.

If Federal Express cannot directly deliver documents to the Court, then there must be a system to ensure that the documents are delivered there by the INS or that the Court is notified that documents are in the lobby. Detainees face devastating consequences if their pleadings are not filed on time with the Court. Thank you for your attention to this matter.

Sincerely,

Joan Friedland
Joan Friedland



AMERICAN BAR ASSOCIATION

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113 N. First Street
Harlingen, TX 78550
(512) 425-9231

January 12, 1993

Cheryl Little
Florida Rural Legal Services
9600 NE 2nd Ave.
Miami, FL 33138

Dear Ms. Little:

As you know the ABA Immigration Pro Bono Project conducted a delegation to South Florida in April 1991. At that time, we toured the Krome detention facility and met with then District Director Richard Smith and INS Counsel Dan Vara. One of the concerns we expressed to Mr. Smith and Mr. Vara was the lack of written legal rights materials available to detainees at Krome. Mr. Smith assured us that he would welcome efforts by the ABA to develop "Know Your Rights" materials in a variety of languages and would see that they were distributed to detainees at Krome. He requested that we work with Mr. Vara on developing the materials which would need to be approved by INS Counsel before made available for distribution. We welcomed this opportunity and followed up with Mr. Vara.

As we began preparing the materials and reviewing the INS Operation Manual, Service Processing Centers, U.S. Immigration and Naturalization Service to determine what the INS policy was re: detainee grievance procedures, isolation, and segregation, we sought clarification on policies which were unclear in the manual from Mr. Vara. In speaking with Mr. Vara, I stressed that we were interested in accurately portraying the INS' policy on these issues to detainees but could not do so without further clarification as the manual left certain questions unanswered. Mr. Vara said he would be happy to help and requested that I put our specific questions in writing to him which I did on June 13, 1991. (See attached letter). Following this correspondence, I spoke with Mr. Vara three times. In all three follow-up conversations, he informed me that he was working on the answers to the questions and would have a response for me soon. I also left three phone messages for Mr. Vara. I have yet to receive a response from him or anyone else in the INS on these issues.

We remain interested in working with the INS to ensure that detainees are informed of their legal rights and the rules of detention and continue to be willing to produce written materials to be approved and distributed by the INS to detainees at Krome. However, unless INS policy on these important issues is clarified, it is not possible to adequately and accurately produce information for detainees.

Sincerely,

Christina DeConcini

Christina DeConcini

cc: Dan Vara, INS Counsel



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June 13, 1991

Mr. Dan Vara
INS Counsel
7880 Biscayne Blvd.
Miami, FL 33138

Dear Mr. Vara:

As I have recently discussed with you, we are in the process of preparing written materials covering the legal rights of detainees at Krome. As you recall from the meeting the ABA delegation had with Mr. Smith in April, he agreed to make such materials available to detainees if we provided them first to you for your approval of the content. We told him we would do this and provide them in several languages.

We want to include the INS' policy on certain issues pertaining to a detainees rights in the materials and thus request that you provide us with that information. It would be most useful if the information was provided to us in writing as we could then be sure that the written materials accurately reflect your policies. I appreciate you following up on this. Although I listed the areas we would like a response to you in our phone conversation last week, I am enclosing a list of the questions for your reference.

In advance, thank you for your time and cooperation. I look forward to hearing from you soon.

Sincerely,

Christina DeConcini

Christina DeConcini

What is the INS policy re: detainees at Krome in the following areas?

1. According to the subsection titled "Detainee Grievance" of the Operational Manual, Service Processing Centers, U.S. Immigration and Naturalization Service, a detainee with a grievance or complaint should first attempt to resolve the problem at the lowest level and then pursue it orally to the Detention Office and if that is unsuccessful, to pursue it orally to the chief Detention Officer. If it is not "resolvable orally" through these channels, he can then prepare a written formal grievance and may receive assistance if necessary in preparing the written grievance from the Supervisory Detention Officer.

Questions:

a. Who determines whether or not the grievance is "not resolvable orally?" If an INS official makes this determination, is it appealable?

b. Is there a form available for the detainee to use in this formal written grievance process?

c. Does the Supervisory Detention Officer helping a detainee to write a formal grievance speak Creole and other languages which the detainee might speak?

d. Does the detainee have the right to have counsel (at his or her own expense) at the formal written grievance level?

e. According to the materials, the grievance committee "may call witnesses, inspect evidence or otherwise gather the facts necessary to allow them to make a decision as to the resolution of the grievance." Does the detainee also have the right to call witnesses, inspect evidence etc.?

2. Is there a distinction between isolation and segregation?

3. If so, what is it?

4. If there is a distinction, what is the policy for each in the following areas?

a. How is it decided who should be isolated and/or segregated?

b. Does a detainee receive notice as to why s/he has been isolated or segregated. In the case of each, does the detainee have the right to challenge this decision?

d. If so, what is involved in this process?

e. What are the rights of a person in isolation and/or segregation? Specifically, what are his or her rights concerning: attorney access, telephone access, recreation, shower and bathroom facilities, meals, classes, visitation rights, uniform changes, laundry changes?

f. What is the maximum amount of time a person can be held in isolation or segregation?

e. Does the detainee have the right to a hearing on the charges or grounds which resulted in his isolation or segregation?

- f. If so, who conducts this hearing?
- g. Does the detainee have the right to present evidence and witnesses at such a hearing?
- h. Does the detainee have the right (at his/her own expense) to have a lawyer represent him/her at this hearing?
- i. Are there separate isolation and or segregation areas for men and women at Krome?
- j. Are there separate rules or conditions of detention for men and women?

LAW OFFICES
CANDACE L. JEAN, P.A.

3050 Biscayne Boulevard, Suite 301, Miami, Florida 33137
Telephone (305) 573-2626

URGENT
HAND DELIVERED

June 3, 1992

Richard Smith, District Director
Immigration & Naturalization Service
7880 Biscayne Blvd.
Miami, Florida 33138

Dear Mr. Smith:

I am writing you regarding severe problems occurring at the Krome Detention Center since Saturday's fire that require your immediate attention and resolution:

1. The detainees have been forbidden the use of the telephones for the past three days which is a violation of the settlement agreement in Michel v. Milhollan. The inability of the detainees to communicate with their attorneys is also a violation of their right to counsel as provided by the I.N.A.

2. The men are being forced to spend the day under the brutal sun because their dormitory has been burned. This is a health hazard as well as cruel. Last week a detainee died on the field, possibly from sun stroke.

3. The detainees are being awoken at 4:30 A.M. to clean the smoky, burned building. They are not doing the work as volunteers or for compensation. This is extremely filthy work and their forced labor is reminiscent of slavery. Women who cry while working are being subjected to cruel and unusual punishment such as "picking up stones on the Krome compound".

4. The detainees are forbidden to gather in small groups to pray together, and their bibles have been confiscated. Some detainees have had the bibles taken right from their hands and thrown in the trash before their eyes. Such action is unconscionable and a violation of religious freedom.

I respectfully request your immediate action to:

1. Provide detainees access to telephones;
2. Provide reasonable shelter and housing to the detainees;
3. Suspend the forced labor of the detainee population; and



LAW OFFICES
CANDACE L. JEAN, P.A.

3050 Biscayne Boulevard, Suite 301, Miami, Florida 33137
Telephone (305) 573-2626

4. Guarantee detainees their religious freedom to pray and read the bibles.

Sincerely,

LAW OFFICE OF CANDACE L. JEAN, P.A.

A handwritten signature in cursive script, appearing to read "C L Jean / me".

Candace L. Jean, Esq.

Appendix II

Memorandum



Subject

Parole Project for Asylum
Seekers at Ports of Entry
and in INS Detention

Date

APR 20 1992

To

All Regional Administrators
All Regional Counsels
All District Directors
All Chief Patrol Agents
All Officers in Charge
All District Counsels

From

Office of the Commissioner

The Service conducted a Pilot Parole Project beginning in May, 1990 and concluding in October, 1991. After evaluating the preliminary results of this project, the Service has decided to reimplement it and to expand it to all Service detention facilities, as well as to contract detention facilities and major ports of entry where Service personnel are available to conduct pre-screening interviews.

The Service has limited detention space. By adopting the Parole Project, the Service will be able to detain those persons most likely to abscond or to pose a threat to public safety rather than to base the detention decision solely or primarily on the availability of detention space. This memorandum sets forth the criteria under which a person who appears to be excludable from the United States, but who has made a claim for asylum, may be paroled pending adjudication of his or her claim.

Appendix II, continued

PRE-SCREENING INTERVIEWS

Pre-screening interviews will be conducted at two types of locations.

First, the Service will endeavor to place asylum pre-screening officers (APSOs) at certain major airports and other ports of entry. The APSOs may be (1) members of the Asylum Corps or (2) inspectors or other Service officers who have been specially trained in asylum law and in asylum interviewing techniques. The Director of Asylum and the General Counsel have been directed to develop a course of training in asylum law and interviewing standards for APSOs, and a team consisting of representatives of the Inspections and Asylum Branches is working to develop operating procedures for APSOs at ports of entry.

Second, the Service will conduct pre-screening interviews at all Service detention facilities, as well as at contract detention facilities where Service personnel are available to conduct interviews. The interviews at detention facilities will be conducted, wherever possible, by APSOs. Pending the widespread availability of trained APSOs, these interviews will be conducted by Service attorneys.

RELEASE CRITERIA

In making the determination whether to recommend parole for a person seeking asylum, the interviewer will determine if the following criteria have been met:

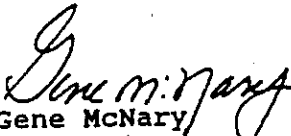
1. The person's true identity has been determined with a reasonable degree of certainty.
2. The allegations in the person's asylum application --- or, in the case of a person who has requested asylum upon arrival at a port of entry, the statements made by the person in support of his or her request for asylum together with any other evidence available to the APSO --- appear to be credible and to provide substantial support for the application or request.
3. The person does not appear to fall within any of the following categories:
 - a.) Any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. 8 U.S.C. § 1101(a)(42);
 - b.) Any person who has been convicted of an aggravated felony. 8 U.S.C. § 1158(d);
 - c.) Any person who has been convicted by a final court judgment of a particularly serious crime in the United States constituting a danger to the community. 8 C.F.R. § 208.14(c)(1);

Appendix II, continued

- d.) Any person who has been firmly resettled within the meaning of § 208.15. 8 C.F.R. § 208.14(c)(2); or
- e.) Any person who may be regarded as a danger to the security of the United States. 8 C.F.R. § 208.14(c)(3).
4. The person has legal representation as defined under 8 C.F.R. § 292.1, and/or a place to live and employment or other means of support.
5. The person agrees to the following:
- a.) to contact the appropriate local INS office each month and to indicate any change in the person's address, employment, or representative; and
 - b.) to appear for all hearings before the EOIR and/or all interviews with the Service; and
 - c.) to appear for deportation, if the person is ultimately ordered excluded; and
 - d.) to report for detention if the person fails to comply with the above requirements, or if the alien is convicted of any felony or three misdemeanors.

If the interviewer has found that the person has met the above criteria, and in the absence of other factors suggesting an unusually strong risk that the person will not appear for further proceedings, the interviewer shall recommend to the district director that the person be paroled. In cases where the person meets some but not all of the above tests, or where other factors suggest a strong risk that the person will not appear as required, the district director may require the person to post a bond. Upon review, the district director may determine that exclusion/deportation proceedings should be terminated and the district director may refer the person's case to the asylum office for processing.

The district directors may also continue to grant parole for the reasons set forth in 8 C.F.R. § 212.5.


Gene McNary
Commissioner



Immigration and Naturalization Service

425 Eye Street N.W.
Washington, D.C. 20536
CO 208.1.16-C

26 SEP 1991

Joan Friedland
Attorney at Law
304 Palermo Avenue
Coral Gables, FL 33134

Dear Ms. Friedland:

This is in response to your letter of September 12 expressing concerns about the implementation of the new parole policies at Krome North Service Processing Center in Miami.

Pre-screening interviews of detained asylum applicants were conducted for two reasons. The first was to obtain sufficient information on which to base a recommendation for parole. As you point out in your letter, many detained aliens are unrepresented, and their asylum applications are substantially incomplete; our pre-screening interviews help to identify possible avenues of potential eligibility for asylum. Secondly, the interview permits the Immigration and Naturalization Service (INS) to verify the information already in the asylum application and to assess the credibility of the applicant.

Pre-screening interviews were scheduled based on the availability of interpreters and the applicants' representatives. Every effort was made to schedule consecutive appointments on the same date for detainees with the same representative.

It has been determined that detainees with a "credible fear of returning" to their country of origin or nationality will be considered for parole. The "credible fear" standard is being defined in writing and is circulating for final approval by the appropriate departments with INS and Department of Justice. Asylum Officers are not at liberty to discuss the standard with detainees or their representatives until it has received final approval. Once finalized, it will be made public. Basically, the standard is less stringent than "well-founded fear of persecution," but more restrictive than "nonfrivolous."

Page 2
Friedland

The pre-screening interviews conducted at Krome by asylum officers are part of a "first program of release" aimed at expediting the review of detainee asylum cases to assess their eligibility for parole. The interviewing process was completed on September 19, with a total of ninety-five detainees interviewed. The first aliens to be granted parole under this program will have been released by the time you receive this letter.

Detainees paroled under this program will have their asylum applications with the Immigration Judges stayed, pending a formal asylum interview by an officer of the Miami Asylum Office. If found eligible for asylum, INS will move to terminate proceedings with the Immigration Judge and grant the asylum. If a denial is recommended, then proceedings will continue with the Immigration Judge while the applicant is out on parole.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,



Luis R. del Rio
Director
Office of International Affairs
and Outreach

AMERICAN BAR ASSOCIATION

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750 N LAKE SHORE DRIVE
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TELEPHONE 312/988-5109
ABA/NET ABA DALEMBERT

September 20, 1991

Mr. Richard Smith
District Director, INS
7880 Biscayne Boulevard
Miami, FL 33138

Dear Mr. Smith:

We appreciate your meeting with the ABA sponsored delegation to Miami last spring. In response to a request from your office, the ABA Coordinating Committee on Immigration Law submitted guidelines for reconstructing the attorney-client meeting area of Krome to provide for privacy and confidentiality. Those were submitted in early June and we were encouraged to hear that reconstruction began shortly thereafter.

We are troubled, however, by more recent news from attorneys practicing in Miami that construction has been interrupted, leaving attorneys with less, rather than greater access to clients and with no greater privacy. As outlined in the guidelines we submitted at your request, the preservation of the attorney-client privilege can only be maintained if communication between lawyers and clients remains confidential. The delegations was most concerned that the existing attorney-client meeting areas did not provide adequate privacy.

We are informed that there are now only two booths available for client consultation, as compared with seven before construction began. As a result, attorneys frequently have to wait hours to see clients, impeding representation. As we stated in the guidelines, it is imperative that the number of booths not be decreased but rather that the booths be remodeled and soundproofed to provide for private communication. A failure to make the area soundproof will defeat the purpose of reconstruction.

We urge you to take action to ensure that the reconstruction of adequate facilities is completed without delay.

I am enclosing an additional copy of the guidelines we submitted for your reference. I would appreciate a response

District Director Smith
September 20, 1991
Page Two

indicating an anticipated time of completion of the attorney-client area and would encourage you to contact Christina DeConcini of the ABA staff in Washington if there is any further assistance we can provide.

Sincerely,

Talbot D'Alemberte

Talbot D'Alemberte

Enclosures

cc: Commissioner McNary
Robert Juceam
Christina DeConcini

RECOMMENDATIONS FOR RECONSTRUCTION OF
ATTORNEY-CLIENT MEETING AREA IN KROME DETENTION CENTER

INTRODUCTION

In April 1991, the American Bar Association's Immigration Pro Bono Development Project sponsored a fact finding delegation to Southern Florida to assess the legal needs of newcomers, asylum applicants and refugees in the area. A report detailing the complete findings and recommendations of the delegation will be forthcoming.

The delegation toured the Krome detention facility located approximately 40 miles outside of Miami. The delegation was extremely concerned about the lack of privacy afforded to attorneys and detainees in the attorney-client meeting area of the facility and expressed this concern to the District Director of Miami. Following the delegation's visit, the ABA has been informed that the District Director intends to reconstruct the attorney-client meeting area of Krome to provide for greater confidentiality and would like the ABA to provide recommendations for its reconstruction. This memorandum is based on the delegation's review of the Krome detention facility as well as existing ABA policy concerning the importance of confidentiality to the preservation of the attorney-client privilege.

STANDARDS

The attorney-client privilege is vital to effective representation of clients by their attorneys. The fundamental principle in the attorney-client relationship is that the communication between lawyers (or legal representatives) and clients remain confidential.^{1/} Special attention must be given to the preservation of the privilege when the client is detained. Authorities supervising the detention of individuals should facilitate confidential contact and communication between persons detained and persons providing legal assistance to them.^{2/} The current attorney-client meeting area at the Krome detention facility fails to provide for confidential communications and thus interferes with the attorney-client privilege.

1/ ABA Model Rules of Professional Conduct and Code of Judicial Conduct, 1989 Edition, Rule 1.6., and See The Attorney-Client Privilege and the Work-Product Doctrine, Second Edition, Section of Litigation, American Bar Association, 1989.

2/ American Bar Association Standards for Criminal Justice, Second Edition, 1986 Supplement, Volume IV, Chapter 23, Section 2.2.

RECOMMENDATIONS FOR RECONSTRUCTION OF THE ATTORNEY-CLIENT
MEETING AREA OF KROME DETENTION CENTER

1. Each attorney-client meeting area must be soundproof to ensure confidentiality and to allow the clients to feel comfortable speaking about their cases to attorneys. Currently, the walls and doors separating each attorney/client area do not afford privacy required to ensure the confidentiality of conversations between attorneys and clients, thus conversations between attorneys and clients can be overheard by persons outside the attorney/client meeting areas because the walls of the booths in which the attorney and client meet do not extend to the ceiling, leaving an open area at the top which further prevents privacy.
2. Barriers between attorney and client should be the minimum necessary and designed to foster an atmosphere of confidentiality between attorney and client. Ideally, the attorney and client should be able to meet in a room furnished with chairs and a desk, with no barriers separating them from each other. Because Krome detains no criminal offenders, such an arrangement would not pose a security threat. Meeting rooms may have windows on the doors so that detention officials can see inside. What is unacceptable is when detention officials are able to hear conversations between attorney and client. Currently, the area where the attorney sits is separated from the area where the client sits by metal bars spaced a couple inches apart. It is important that the ability of attorneys and clients to freely exchange documents be preserved in the reconstruction of the attorney-client meeting area. We do not recommend that plexiglas, intercom systems or other systems which restrict communication between attorney and client, be installed. Plexiglas would interfere with effective communication between attorney and client. A survey of attorneys representing clients at Krome has confirmed that there is no need to install plexiglas. An intercom system is not advisable as it would serve to obstruct communication between the attorney and client, especially when an interpreter is involved in the communication between attorney and client. In any event, such high security installations simply are not warranted and would be an extravagantly excessive expense.
3. Ideally, the attorney booths should be larger than they currently are as the area is cramped when two persons are interviewing the detainees. However, it is not advised that the booths be enlarged at the expense of losing the number of booths currently available. There are currently seven (7) booths and at times all are occupied. It is important, therefore, that the number of booths not be decreased. Each booth should be furnished with chairs for the client as well as the legal representatives. Because the current size of the booths is small, the chairs should be an appropriate size to allow for two of them to comfortably fit in the attorney section of the booth. This is necessary as many attorneys bring interpreters when interviewing detained clients.

4. The booths should be well ventilated with adequate lighting to allow the attorney and client to be comfortable during the interview process which in turn, will permit more serious, business-like discussions. Because of the extreme heat in Miami, air conditioning in the booths is appropriate for Krome.

5. Each booth should have a door which closes securely.

6. INS officials should not be in an area where they can overhear conversations occurring between the attorney and client. The presence of INS officials within the attorney-client area will have a chilling effect and interfere with confidentiality. If the booths are soundproof, this should not be a problem. If an INS official does have to enter an area where s/he will be able to hear conversations between the attorney and client, s/he should announce his/her presence upon entering.

RELATED ISSUES:

1. The detainees at Krome should have access to phones which are located so as to afford them complete privacy in conversations with lawyers. The phones should be situated in an area where others waiting to use them and/or INS officials passing by cannot hear the conversations of the detainee. In addition, the phones should be located indoors so as to allow the detainee to be free from uncomfortable heat and weather conditions while using the phones.

2. There should be more than one phone available for attorneys to use within the Krome detention facility. The phones for attorneys should be located indoors in a comfortable environment, such as individual booths, which offers complete privacy.

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JOAN FRIEDLAND
BEATRIZ ZUÑIGA McKEY*

*Admitted in Texas

SENT BY FAX TO: (202) 514-4623

September 12, 1991

Ricardo Inzunza
Deputy Commissioner
Immigration and Naturalization Service
425 "Eye" Street N.W.
Washington, D.C. 20536

Re: Miami parole policy

Dear Mr. Inzunza:

We are writing to express our concern about the implementation of new parole policies at Krome Service Processing Center.

On September 3, asylum officers began conducting interviews of Krome detainees. In the past two days we sat in on interviews with seven of our clients at Krome. We have been at a great disadvantage in doing this. We do not know the standards to be used in reviewing the cases, because the asylum officer and Krome officials have advised us that these standards have not yet been approved in Washington. They therefore cannot tell us if the standard will be "some legitimacy" as stated by District Director Richard Smith on August 29, or "frivolous/non-frivolous" or "colorable claim" or some other standard. We do not know what we have to prove, if anything. We do not know how the interviews may be used for or against our clients in their asylum hearings. We do not know whether our clients remain eligible for parole if their hearings begin before a decision on the parole application.

The asylum officer and Krome officials have not even been able to confirm what parole program the interviews are conducted under. In other words, since we have not received a response to our September 3 letter to Mr. Smith (a copy of which is enclosed), we do not even know if the programs announced by Mr. Smith are in effect, or if some other programs are in effect. We do not know when decisions will be made concerning parole or when detainees will be released or upon what terms.

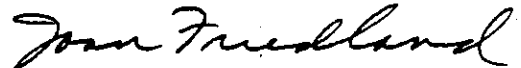
The conduct of the interviews suggests that the asylum officer is making an asylum determination, a decision well beyond the kind of review Mr. Smith discussed on August 29. The asylum officer has expressed conclusions about ultimate asylum questions, for example, that mere participation in democracy demonstrations in China cannot lead to a reasonable possibility of persecution

or that the claims of Sikhs from the State of Punjab in India are imputed political opinion claims and therefore insufficient. He has expressed doubts about the claims of applicants from the same region because their claims are similar. He has expressed doubts about applicants' credibility based on his questions about the validity of documents, even where those documents have been provided to the INS for forensic evaluation in connection with court proceedings. While the doubts can be answered in court, they cannot be properly answered in the asylum interview.

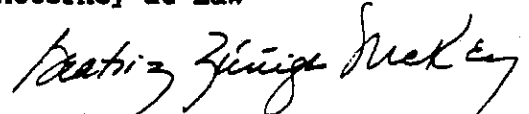
In five of our interviews, the INS did not provide interpreters who spoke our clients' languages despite the languages being clearly identified in the asylum applications. For example, three of our clients interviewed on Tuesday speak Punjabi, which the interpreter was unable to speak at all, and on Wednesday, two of our clients spoke Cantonese while the Krome interpreter spoke Mandarin. On both days, our own interpreters were present so we could speak to our clients and to verify the accuracy of interpretations. When the INS-provided interpreters were dismissed, we did the interviews with our interpreters at our expense. This raises serious questions about the adequacy of interpretation for those who don't have lawyers to question it and provide interpreters, or whose lawyers don't have interpreters present.

Conducting interviews for parole in the same way as interviews for adjudications, without an articulated standard or adequate translation, is a complete absence of due-process. The process we have witnessed contradicts the promises made to end the hunger strike, and calls into question the INS's intent in promising new parole programs. We request your intervention to ensure a fair and humanitarian parole policy and practice.

Sincerely,



Joan Friedland
Attorney at Law



Beatriz Zúñiga McKey
Attorney at Law

cc: National Immigration, Refugee and Citizenship Forum
American Immigration Lawyers Association
Haitian Refugee Center
American Friends Service Committee

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JOAN FRIEDLAND

BEATRIZ ZÚÑIGA McKEY*

*Admitted in Texas

HAND DELIVERED

September 3, 1991

Richard Smith
District Director
Immigration and Naturalization Service
7880 Biscayne Blvd.
Miami, FL 33138

Dear Mr. Smith:

This letter is to confirm our understanding of your statements on August 29, 1991.

1. The Commissioner of the INS ordered the INS chief counsel to contact Judge Robie and Board of Immigration Appeals personnel to set up meetings for August 30, 1991 to discuss the possibility of expediting the review of cases on appeal. In addition, they will seek to expedite the return of cases involving detainees who appealed but then decided to withdraw their appeals. Under current procedure it takes approximately 4-6 weeks for the files to be returned after the necessary paperwork is submitted.

2. Beginning Tuesday, September 3, 1991 asylum officers from 27th Avenue will conduct a cursory review of all asylum applications in cases not before an immigration judge (i.e. where the individual calendar hearing has not begun) to determine if the asylum claim has "some legitimacy." If it is determined to have some legitimacy, then parole will be granted. If there are insufficient asylum officers on 27th Avenue to conduct this review, trained asylum officers from elsewhere will be detailed to conduct this review. In the past, paroles granted on this basis have been without bond. Review under this program will begin with oldest cases first. Mr. Powers estimated that this review will take 10 days.

As we made clear at the meeting, we do not agree that asylum officers cannot review asylum applications that are before an immigration judge. The review the asylum officers would conduct to determine if an asylum application has "some legitimacy" for the purpose of granting parole is quite distinct from the decision to grant asylum, and involves an entirely different standard of proof.

A refusal to conduct the asylum review for those whose individual calendar hearings have begun or whose cases are on appeal will affect a substantial

number of people. We were advised at the meeting that this matter will be presented to the asylum unit and INS officials in Washington, and we will be notified of the response. We consider this a serious matter which will likely lead to future problems if not resolved now.

3. The Pilot Parole Project in effect last summer will be reinstituted, using identical criteria. New parole requests must be made using the criteria outlined in Commissioner McNary's April 26, 1990 memorandum. Bonds will be set between \$500 and \$2,500. There is no limit on the number of people who may qualify under this program. Please advise us if parole decisions under this program will be made by the asylum unit or officials at Krome or both.

You advised us that the above parole programs are in addition to already existing parole criteria, and their duration is uncertain. These criteria will be in effect for the entire population. We believe, however, that these humanitarian parole criteria should be made permanent, and we urge you to provide written parole guidelines which will accomplish this.

The other matters discussed at the meeting concerned medical treatment of the hunger strikers. You advised us that since 72 hours had passed since the hunger strike began, Bureau of Prison regulations required that hunger strikers be isolated so they could be monitored by the medical staff, and that this would require moving the strikers inside. They would be given until Friday evening to do so voluntarily. Since we have been informed that the strikers voluntarily moved inside Thursday night and resumed eating, this point appears to be resolved.

We were also advised that in your meeting with detainees on Thursday night, you discussed complaints concerning treatment by detention officers. As you are aware, the strikers included in their written demands that you "do something" concerning mistreatment by detention officers. We were advised that you counseled the detainees to be patient and that you intended to take action on their complaints. We would appreciate your advising us of the action that will be taken.

Finally, we have also been advised that you assured the detainees that there will be no punishment because of their participation in the strike. We note that you acknowledged to the Miami Herald that the detainees demonstrated peacefully and did not violate any rules.

I would appreciate your confirming your agreement with our understanding of the discussions on August 29. Thank you.

Sincerely,



Joan Friedland
Attorney at Law

On behalf of:

Beatriz Zúñiga McKey, Esq.

Rolande Dorancy, Cheryl Little,
Esq., Evenette Mondesir, Esq.
Haitian Refugee Center

Jonathan Fried
American Friends Service Committee

Xiaowu Zhang, Esq.

Randall Sidlosca, Esq.

cc: Kenneth Powers

Appendix B: Articles and News Releases

1. Celia W. Dugger, "In Pursuit of Freedom, Finding Prison Bars: U.S. Struggles to Unclog Asylum System," The New York Times (July 9, 1996) [1p].
2. Mathew W. Purdy and Celia W. Dugger, "Legacy of Immigrants' Uprising: New Jail Operator, Little Change," The New York Times (July 7, 1996) [3pp].
3. Nancy San Martin, "Miami Airport's 'Port Court' Draws Criticism," Sun-Sentinel (July 1, 1996) [1p].
4. Eric Schmitt, "How U.S. Immigration Officials Deceived a Group of Lawmakers: Justice Dept. Report Details on Elaborate Ruse," The New York Times, June 29, 1996 [2pp].
5. Mark Dow, "The Latest Victims of I.N.S. Discrimination at Miami's Krome Detention Center," (March 1996) [6pp].
6. Andres Viglucci, "Krome Detainee Accuses Guards of Assault," The Miami Herald (February 24, 1996) [1p].
7. Andres Viglucci, "Inmates Complain of Crush at Krome," The Miami Herald (February 16, 1996) [2pp].
8. U.S. Department of Justice, U.S. Attorney Southern District of Florida, "News Release: Former Krome Guard Beating Detainee," (January 4, 1996) [2pp].
9. Joan Friedland and Beatriz Zúñiga McKey, "Two-faced Immigration Policy," Daily Business Review (December 9, 1994) [1p].
10. William Booth, "U.S. Accused Of Sedating Deportees: Tranquilizers Given To Those Who Resist," The Washington Post (October 7, 1993) [1p].
11. Andres Viglucci, "More Haitians Being Freed from Krome," The Miami Herald (July 10, 1993) [1p].
12. Andres Viglucci and Harold Maass, "Hunger Strike Continues for Some: Detainees Leveling Charges of Abuse," The Miami Herald (January 9, 1993) [2pp].
13. Manny Garcia and Lizette Alvarez, "Haitian-born Athlete Tries to Visit Krome," The Miami Herald (January 6, 1993) [1p].
14. Andres Viglucci, "159 Stick to Hunger Strike: Meeting with INS fails to End Krome Protest," The Miami Herald (January 5, 1993) [2pp].
15. Andres Viglucci, "Not All Refugees Treated the Same: Haitian Policy Fuels Critics," The Miami Herald (November 29, 1992) [1p].
16. Anthony DePalma, "Winds Free 40 Aliens, Stirring Second Storm," New York Times (September 21, 1992) [2pp].
17. Larry Rohter, "'Processing' for Haitians Is Time in a Rural Prison," New York Times (June 21, 1992) [1p].

18. Larry Rohter, "Haitian Refugees Allege Abuse at Florida Center," New York Times (June 5, 1992) [1p].
19. Donna Gehrke and Karen Branch, "Sit-down Strike Held at Krome: Detainees Protest Waits, Conditions," The Miami Herald (August 27, 1991) [1p].
20. Lizette Alvarez and Debbie Sontag, "Krome Haunted by Claims of Abuse, INS Chief: Charges are 'Outlandish'," The Miami Herald (April 28, 1991) [4pp].

In Pursuit of Freedom, Finding Prison Bars

U.S. Struggles to Unclog Asylum System

By CELIA W. DUGGER

The highest administrative tribunal in the nation's immigration system never doubted the harrowing story of Hana Jama, a 26-year-old Somali woman who sought asylum in the United States in 1994.

Miss Jama, who told of discovering the bodies of her father and two little brothers shot in the head by clan warriors, and of being herself sliced with a bayonet and battered with a rifle butt, was jailed upon her arrival here at the Esmor detention center in Elizabeth, N.J., where her lawyer, Gloria M. Alfonso, said she sank into deep depression.

"She could not stop crying," Ms. Alfonso said. "She was so thin, so pale. You felt she was on the verge of death."

After a disturbance led to Esmor's closing, Miss Jama was moved to another jail. She was released after 14 months in detention, and a month ago was granted asylum. She now lives with her sister in Tennessee.

FAILURES WITHOUT PENALTY

Second of two articles.

Her lengthy detention after entering the country illegally is emblematic of broader failings in the United States Immigration and Naturalization Service's program to release asylum seekers who have credible claims, pose no danger to society and have ties here, say immigration experts and advocates for refugees.

The disturbance at the Esmor detention center a year ago, fueled by detainees' frustrations over their prolonged incarcerations and conditions at the jail, highlighted serious problems in that program. Though the immigration service has not yet made nationwide changes, officials say there will be an improved program ready to be carried out in the detention center in Elizabeth when it reopens in the fall.

The program for asylum seekers has been plagued by inadequate staffing, inconsistent application, a lack of accountability for district directors who ignore recommendations for parole, and an inability to track the cases of detainees, according to immigration service reports and lawyers who have tried to get their clients released.

Tellingly, the immigration service says it does not know how many asylum seekers it has in detention. Last year, 33,255 immigrants came forward to ask for sanctuary here.

When the Elizabeth jail reopens, I.N.S. officers who handle asylum cases will also screen immigrants for possible parole, an approach the immigration service plans to expand nationally, said T. Alexander Aleinikoff, the service's associate commissioner. A working group within the agency is now developing specific changes in the program, he said, ranging from which asylum seekers will be considered for parole to how their cases will be monitored.

The goal, he said, is to deter fraudulent asylum claims by detaining immigrants who are not credible, while paroling those with bona fide claims on humanitarian grounds.

"We're on our way to finding that balance," Mr. Aleinikoff said, although conceding that the asylum release program "has not been a core commitment of the agency."

Advocates for refugees say they have heard promises to reform the process before, but have yet to see results. "What's it going to take?" said Elisa Massimino, legal director in the Washington office of the

Lawyers Committee for Human Rights. "Another Esmor?"

A Promise, Then Jailed

In recent weeks, the immigration service's detention of asylum seekers has come under increasing scrutiny. The Board of Immigration Appeals, in granting asylum to 19-year-old Fauziya Kasinga, who said she had fled Togo to escape genital mutilation, asked why the immigration service had detained the young woman, who had no criminal record, for more than a year.

And on June 15, Amnesty International asked the immigration service to investigate lawyers' complaints that asylum seekers from Bangladesh, Ghana, Ivory Coast and the former Yugoslavia who had relatives willing to support them and who were ultimately granted asylum had been detained for four to six months in the immigration service's Philadelphia district.

Mary Frances Holmes, the service's acting district director in Philadelphia, said her staff had just begun looking into the allegations and did not yet have a response.

Amnesty International also questioned the 14-month detention of a Sri Lankan asylum seeker, Ehamparam Appukududy, who died of a heart attack in May at the Lehigh County Prison in Pennsylvania.

A year earlier, when Mr. Appukududy was at Esmor, his lawyer had asked the immigration service to release him because he had a serious heart condition. Warren Lewis, the district director, refused, replying that there was no evidence that Mr. Appukududy had heart trouble and that he had not submitted documents proving his identity, according to documents supplied by Mr. Appukududy's lawyer.

A few days after Mr. Appukududy's death, Ms. Holmes said in an interview that he had received appropriate medical care, but she declined to give more details.

His lawyer, John Assadi, said that Mr. Appukududy's wife and 16-year-old son were still grieving in Canada, where they had hoped he would join them. "The I.N.S. wouldn't let him go to Canada, but they're sending the corpse there," Mr. Assadi said.

The goal of the immigration service's policy on deciding which asylum seekers to parole, issued in



Hana Jama, a 26-year-old Somali who sought asylum in the United States, was jailed for 14 months before her legal case resolved and she was allowed to stay. She now lives in Tennessee.

April 1992, was to avoid wasting scarce, expensive detention space on legitimate asylum seekers whom the country was prepared to admit. Under the policy, immigration officials trained in asylum law were to interview asylum applicants, review their cases and make a recommendation to district directors.

From the start, there was tremendous resistance to the policy within the immigration service, particularly from some district directors. They saw the release of people who entered the country without legal documents as antithetical to their battle against illegal immigration, said Grover Joseph Rees, who was general counsel at the immigration service during the Bush Administration, when the policy was adopted.

"Many I.N.S. employees view the job as simply trying to keep people out of the country," Mr. Rees said. "They don't distinguish between people who have been persecuted and people who have not. The enforcement people see the asylum branch and the general counsel's office as softies who have no real world experience and are an easy mark for fraudulent claims."

Since the asylum release policy was adopted, the pendulum has swung toward a crackdown. Soon after President Clinton took office in 1993, two people were gunned down outside the Central Intelligence Agency in Virginia and a Pakistani national who had extended

his stay in the country by applying for asylum became the leading suspect.

Then a suspect in the February 1993 bombing of the World Trade Center, Sheikh Omar Abdel Rahman, was found to have applied for asylum. Two weeks after the bombing, "60 Minutes" broadcast a report on the thousands of people who were arriving at Kennedy International Airport without proper travel documents and who were being released simply because of a lack of detention space.

The broadcast quoted the Federation for American Immigration Reform, a group that favors restrictive immigration policies, as saying that only 1 or 2 percent of those thousands were really fleeing persecution.

Immigration officials say that, over all, 20 to 25 percent of those who request asylum are granted it, but they also say that the asylum system at the time of the policy change was so overwhelmed that immigrants who had no basis for a claim of persecution could ask for asylum, get immediate authorization to work, and rest easy that their cases would simply disappear into the backlog.

Routine Detention For Asylum Seekers

"These events had a major effect on Capitol Hill," David A. Martin, the current general counsel of the immigration service, wrote in a law journal article. "Hearings proliferated on what was suddenly being portrayed as an asylum crisis."

When the Esmor detention facility opened in 1994, the immigration service used it to routinely detain asylum seekers who tried to enter the country illegally through Kennedy and Newark airports. About 35 percent of the immigrants detained at Esmor during its 11 months of operation were asylum seekers, the I.N.S. said.

And in January 1995, the immigration service also began requiring asylum seekers to wait six months for work papers. It also beefed up staffing so claims could be processed more quickly.

The changes in the handling of asylum seekers caused the number of new asylum cases filed in New York and Newark to plummet to 18,463 in 1995 from 42,199 in 1994, officials said.

But in its zeal to deter fraudulent asylum claims, the immigration service, advocates and refugees say, has too often lost sight of its humanitarian responsibilities.

Only 30 of the 354 asylum seekers at Esmor received reviews from immigration service lawyers

charged with considering their possible parole under the program, according to the immigration service's post-Esmor report. The lawyers recommended releasing seven of them. But the district director released only one person as a result of those recommendations.

According to the Justice Department, immigration judges granted asylum to 35 of the Esmor detainees. Most of those who lost filed appeals. In the cases involving Miss Kasinga and Miss Jama, the Board of Immigration Appeals overturned the judges' rulings that had denied asylum.

At Esmor, Miss Kasinga and Miss Jama, both young Muslim women from Africa, befriended each other and sometimes prayed together in the recreation area. Miss Jama, said already, said she became even more despairing after learning that her mother had died in a refugee camp. Miss Kasinga said she recalled that Miss Jama was so weak from not eating that she had to lean against the walls to support herself when she walked.

Violence at Home; Prison in the U.S.

The Catholic Legal Immigration Network in Newark, which was representing Miss Jama, first asked for her release in October 1994, two months after she arrived in the United States, and got no reply, Ms. Alfonso said. That request was renewed in March, with greater urgency, because of Miss Jama's deteriorating health, she said.

In April 1995, Mr. Lewis denied the request for parole, saying in a letter that medical records did not substantiate the claim of depression, Ms. Alfonso said.

After the Esmor disturbance, Miss Jama was moved to the York County Prison in Pennsylvania. In a letter to the I.N.S. dated July 27, 1995, Ms. Alfonso said that Miss Jama had told her she wanted to die.

"At this point, I do not know how long she will be able to endure detention," Ms. Alfonso wrote. "I would not wish her to die in a detention facility and I am certain I.N.S. shares this sentiment."

Ms. Holmes of the Philadelphia district said she could not comment on the specifics of Miss Jama's case. "It's not right and proper to give out information about people," she said.

On Oct. 26, 1995, Miss Jama was released because of her poor health. "I'll never forget that day," she said. "I was crying. My family was waiting for me. I was in joy. But the freedom was hard that day. I had waited 14 months. I was innocent."



Fauziya Kasinga, right, who fled genital mutilation in Togo, was released in April. Karen Musalo, a lawyer, rejoiced with her.

The New York Times

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SUNDAY, JULY 7, 1996

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Legacy of Immigrants' Uprising: New Jail Operator, Little Change

By MATTHEW PURDY
and CELIA W. DUGGER

After a melee erupted at a detention center for immigrants in Elizabeth, N.J., a year ago, the Immigration and Naturalization Service pronounced the center a double failure: the private company that ran it for the Government did so with underpaid, poorly trained guards who harassed and degraded immigrants, and the immigration service itself fumbled its supervisory role.

Yet as the immigration service prepares to reopen the New Jersey center as part of a national expansion of detention space for immigrants, no immigration official has been disciplined because of the disturbance, which resulted in heavy

FAILURES WITHOUT PENALTY

First of two articles.

property damage, and a criminal investigation has produced no charges. In addition, the I.N.S. allowed the company that ran the jail, Esmor Correctional Services, to recoup \$6.2 million by selling its contract to a new concern that will take over the operation.

Immigration officials have pointedly blamed Esmor for keeping agency managers in the dark about conditions that provoked the disturbance, and they now say they have learned a lesson about overseeing contractors. But interviews with officials of the immigration service and Esmor suggest that new safeguards planned for the reopened center in the fall are similar in many ways to the old center's operations. Indeed, the immigration service was in a position to know virtually every detail about life inside the jail under Esmor, where one agency official recalls that he routinely roamed the halls talking freely with detainees.

Immigration officials portray the New Jersey center as an aberration, but advocates for immigrants say that the callous treatment of detainees and prolonged stays there, while extreme, are not unusual in the sprawling, sometimes overcrowded detention system.

"It was probably the worst of a

Continued on Page 10, Column 1

After Immigration Jail Melee, Reports, but Few Changes

Continued From Page 1

common set of problems," Margaret H. Taylor, an associate professor of law at the Wake Forest University School of Law, who has studied I.N.S. detention, said of Esmor. "It's a chaotic detention system and they're still trying to come to grips with it."

Nationally there are 13 centers where illegal immigrants or asylum seekers are held while they await the outcome of their legal cases, most run by the Government, a few by private contractors. In addition, the Government pays many state and local jurisdictions significant sums to house such detainees.

Although Federal officials called the uprising in New Jersey the worst disturbance ever at a privately run immigration jail, it is unclear a year later what official fallout, if any, resulted from it.

"In my opinion, Esmor was a national scandal and I just don't see the accountability for it," said Warren R. Leiden, the executive director of the American Immigration Lawyers Association and a member of the United States Commission on Immigration Reform, which is appointed by Congress. "There is no tradition of holding supervisors responsible in the immigration department. It's no one's fault. The horse let himself out of the barn, right?"

Although there was no management shake-up, T. Alexander Aleinikoff, an executive associate commissioner of the Immigration and Naturalization Service, said that immigration officials involved with Esmor, particularly in the Newark district, have learned from the mistakes laid out in the immigration service's critical evaluation of Esmor's management of the jail.

"I think the district paid a tremendous price," Mr. Aleinikoff said. "It got bad publicity. Headquarters issued a blistering report. We think that report has great pedagogical value."

He predicted that the reopened jail would be a much better place because of "a better contract, better I.N.S. supervision and more public scrutiny."

Agency officials decided against disciplining Esmor. Though they described a list of contract violations by the company, they neither declared the company in default of its contract nor canceled the agreement when it came up for renewal last August. Instead, immigration officials, fearing a lawsuit by Esmor and a lengthy bidding process to find a new contractor, allowed the company to sell the contract.

"They would have pointed fingers at us," said Mr. Aleinikoff, a law professor on leave from the University of Michigan. "We would have pointed fingers at them. It's better to have a clean break."

In the last decade, the capacity of the detention system has more than doubled, to 8,400, and is expected to reach almost 10,000 next year. Immigration officials are bracing for a

surge in the demand for detention space because of the new Anti-Terrorism law mandating the deportation of thousands of noncitizen residents with criminal records.

To cope with the numbers, the agency is financing a pilot program in New York of supervised release for immigrants who do not appear to pose a flight risk, an approach it hopes to use nationally to produce a more rational, efficient system.

Whatever plans Washington officials have for improving the system, problems remain.

Inquiries

I.N.S. Is Accused Of Deception

A Federal investigation disclosed two weeks ago that I.N.S. managers had deceived visiting members of Congress about crowded conditions at a Miami detention center. Just before the House members flew into Miami last July, the immigration service transferred or released a quarter of the detainees from the Krome detention center, including some with criminal records.

Tipped by disgruntled employees, Department of Justice investigators say they found a cover-up: incriminating computer messages vanished and officials denied they were trying to gloss over problems in the detention system.

A month after the disturbance in Elizabeth, the immigration service issued a report saying that because of Esmor's policy of withholding information from agency officials, "the service had little knowledge of specific problems or concerns of detainees in the custody of Esmor."

But the picture of the jail that emerges now from officials and detainees who were there suggests that immigration officials were in a position to be aware of much that was going on.

In November 1994, three months after the jail opened, dozens of detainees protested conditions by going on a hunger strike and hanging signs from windows. Some of them said that Michael D. Rozos, who was both the agency official in charge at Esmor and the contract compliance officer, met with them and heard their complaints of abusive treatment by guards, bad food, lights left on while they tried to sleep at night and the slow progress of their immigration cases.

Mr. Rozos said in a written reply to questions that he often spoke to detainees, investigated their complaints and acted upon them if they were justified.

But Mr. Rozos also said that he was given too many responsibilities as the person charged with overseeing compliance with a complex contract as well as the day-to-day operations of the immigration service at the jail. He also said Esmor officials were not keeping him fully informed and resisted his advice.



New York Times
Sunday
July 7, 1996
(p10 cont.)

Detainees were taken into police custody last June after an uprising at an immigration jail in Elizabeth, N.J., run by Esmor Correctional Services.

"I think it was impossible for me to adequately oversee the contract and the facility," he said.

The immigration service's own report on the disturbance was sharply critical of how the Newark district managed oversight of Esmor, saying it piled too many tasks on Mr. Rozos and allowed too much turnover among senior I.N.S. managers there.

Norman Uzzle, who succeeded Mr. Rozos in March 1995 as the contract compliance officer at Esmor, said detainees complained often about food, lights being left on at night and delays in the legal process, but rarely about abusive guards. He said he had not detected a pattern of abuse and harassment by guards, a pattern reported by the immigration service after the disturbance.

"Every complaint made to me that was possibly legitimate, I notified Esmor of in writing and a copy was sent to the regional office," Mr. Uzzle said. The I.N.S. report called Mr. Uzzle an "exemplary" officer, but it said he lacked experience in detention.

Mr. Rozos, Mr. Uzzle and James F. Slattery, president of Esmor, said the dominant frustration among detainees had to do with the slowness of the immigration process itself, particularly delays in getting hearings before immigration judges who worked for a different section of the Justice Department, the Executive Office for Immigration Review.

Both Mr. Uzzle and Mr. Slattery said the jail was a clean, relatively pleasant place. When detainees were segregated, shackled or strip-searched it was generally for legitimate disciplinary or security reasons, they said.

Mr. Uzzle said he did tell the investigative team that came in after the

disturbance that an Esmor official had told him it was corporate practice to keep the I.N.S. in the dark. "There were problems, but we were ironing them out," Mr. Uzzle said recently.

The relatively harmonious depiction of the situation at Esmor presented by Mr. Uzzle and Mr. Slattery diverges sharply from the Kafkaesque view expressed by detainees, some of whom are plaintiffs in a lawsuit soon to be filed against Esmor and I.N.S. officials by the Constitutional Litigation Clinic at the Rutgers School of Law.

The detainees say they were arbitrarily subjected to strip searches and beatings, were at times ordered into solitary confinement for no reason, were served food that was not fresh and given soiled clothes, were made to sleep with lights on all the time, and had money and jewelry taken from them, never to be returned.

Joseph Ackah, an asylum seeker from Ghana, for example, said he was shackled to a bed in a small windowless room for 15 days after a guard falsely accused him of breaking a toilet plunger.

Mr. Uzzle, a career I.N.S. employee who started out 18 years ago in the border patrol, said the detainees' stories were not all believable. "These people all attempted to enter the country illegally," he said. "You have to take what they say based on the fact that they have already lied to officers of the service."

On June 18, detainees took over the jail and went on a rampage, pulling doors off their hinges, smashing windows and sinks, tearing chairs apart. The service said the melee was sparked by an escape attempt and fueled by detainees' anger about de-

tention conditions.

The Esmor guards abandoned their posts and called 911, the immigration service later reported. Five hours after the disturbance began, police swarmed into the jail and gained control.

Many of the detainees' precious documents — the birth certificates, newspaper clippings, letters and other papers that were the evidentiary basis for their hopes of winning asylum in the United States — were thrown away and in some cases taken from them as they left the jail, said Joyce Phipps, staff attorney with El Centro Hispanoamericano, an immigrant assistance organization in Plainfield, N.J.

Immigration officials said many of the papers were destroyed in flooding caused by the destruction to property during the disturbance. They did not see guards or the police stripping detainees of their papers.

Ms. Phipps went to Federal court and won permission to pick through trash containers. "We saved approximately eight Xerox boxes filled with documents that belong to people," she said.

Fallout

Less 'Conduct' Than 'Performance'

After the disturbance, the jail was closed for repairs and the 315 detainees were transferred.

The F.B.I. in Newark investigated and reported to the Civil Rights Division of the Justice Department, but no charges were filed.

The only people prosecuted for the treatment of detainees were 12 correction officers at the Union County Jail, where some detainees were taken after the disturbance. County prosecutors said that officers had beaten and kicked detainees, dunked their heads in toilets and pulled out their hair with pliers, and that other officers had tried to cover up the incidents.

Esmor's stock plunged — but only for a while. It hit a low of \$7 a share, but rebounded to just over \$20. And the company continues to work for the Government, including the I.N.S., for which it runs a detention center in Seattle.

Within the I.N.S., no one responsible for overseeing Esmor was disciplined, agency officials said. Both Mr. Uzzle and Mr. Rozos transferred out of the Newark division for reasons that were unrelated to Esmor, said Carole D. Chasse, the immigration agency's Eastern regional director. And none of their supervisors were disciplined.

"I think this issue is not as much conduct as performance," Ms. Chasse said of Esmor. "It wasn't necessarily misconduct as it is people may not have performed as well as you might have hoped."

She said Mr. Rozos, in particular, had been "very attentive."

A few days after she defended her subordinates at Esmor, and after disclosure of the attempt to deceive the Congressional delegation visiting Miami — which is in the Eastern region — Ms. Chasse was relieved of her regional director's job.

She denied wrongdoing, but the

Justice Department report said she was aware that the Krome center was so overcrowded that it "could develop into an emergency." The report, which recommended her suspension or termination, said her denials of approving the release and transfer of detainees to cover up conditions were not credible.

After the disturbance in New Jersey, officials said the agency decided that the quickest way to return the detention center to operation was to let Esmor sell the contract.

Esmor sold the rights, the lease and the center's equipment for \$6.2 million to the Corrections Corporation of America, according to documents filed with the Securities and Exchange Commission. Mr. Slattery, Esmor's president, said the company "didn't lose significant money" on its Elizabeth operation, because of the sale.

Challenges

A 'Hodgepodge' Becomes Lucrative

Detaining immigrants believed to be in the country illegally is a task whose growth seems to have crept up on the immigration service. Its detention manual is 16 years old. Officials say that the system works, but advocates for immigrants say the conditions of confinement vary widely.

The immigration service operates nine of its own detention centers, including Krome in Miami. Four jails are run privately for the service, including the one in Seattle operated by Esmor.

The agency also rents thousands of beds in hundreds of state and local jails nationwide and formally inspects them just once a year. Many of those jails are far from large urban areas where immigrants would have a better chance of finding lawyers experienced in immigration law, advocates say.

And detention of immigrants is becoming a lucrative business. In Pennsylvania, York County is planning a 500-bed addition to its local prison just to rent to the immigration service. The county now houses 350 immigrants and is making a tidy profit on each detainee. "It costs us about \$24 a day to house them and the I.N.S. pays us \$50," said Christopher B. Reilly, a county commissioner.

Peter Schey, a California lawyer handling a class-action suit seeking improved conditions for detainees, says the quality of detention is uneven because the agency is decentralized and the detention system is governed by a "hodgepodge of policies" rather than a set of uniform regulations.

With a political climate that is increasingly hostile to immigration, and growing demands for detention, the New Jersey episode remains a cautionary tale for immigration officials.

After the disturbance, said Mr. Alenikoff, the immigration service's executive associate commissioner, "We basically said, 'How on earth could this have happened?' We got in there and discovered a lot of things went wrong."

Miami airport's 'port court' draws criticism

By NANCY SAN MARTIN
Staff Writer

MIAMI — Beginning today, passengers caught without appropriate travel documents at Miami International Airport may find themselves on the next flight out of the United States unless they can convince an immigration judge otherwise.

A "port court," the first of its kind in the nation, is opening its doors to pas-

sengers thought to be carrying fake or altered documents or no documents at all. And it is already attracting criticism from advocates for immigrants.

Operated by the Immigration and Naturalization Service and the Justice Department's Executive Office of Immigration Review, the new court at the airport has one objective: to deter foreigners from trying to enter the country illegally.

The whole intention is to not have

[illegal foreigners] stay at all," said Michael Hrinak, acting port director at the airport. "We don't want to clog up prisons. We don't want to clog up the judicial system. We just want to remove them."

The court, set up in Concourse E, is part of the Florida initiative announced in May by Gov. Lawton Chiles and U.S. Attorney Janet Reno to curb illegal immigration. In the planning stages since December, Miami's court

is styled after a similar port court in California at the border between San Ysidro on the U.S. side and Tijuana in Mexico.

Miami will be the first to test the set-up at an airport.

The idea is to get illegal foreigners out of the country soon after they attempt to gain entry. Rather than taking them to Krome Detention Center

PLEASE SEE PORT COURT/48

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PORT COURT

FROM PAGE 18

Miami International Airport's courtroom ready for business

to await an appearance before a judge — a process that can take several weeks — the foreigner will appear the day of arrival or the day after.

Because the airport is not considered U.S. soil unless documents are stamped by an immigration inspector, the only legal right passengers have is to appear before an immigration judge to state their claims for entry.

In what is known as exclusion hearings, the judge determines whether the passenger can enter the United States. Hrinak said the appearances before the judge stationed at the airport will be limited to less complex cases.

That includes passengers with no documents; those carrying altered or fraudulent passports or permanent residency cards; those suspected of making false claims of being U.S. citizens; or those who initially came to the United States on tourist visas, overstayed, returned home for a visit and then are caught trying to come back into the United States.

Passengers who claim asylum or choose to be represented by attorneys will be taken to Krome. Cuban nationals also will be automatically taken to Krome because there is no agreement with Cuba for repatriations via airlines.

"The port court will save on detention costs and the alien doesn't have to wait long before he can see a judge," Hrinak said. "It's meant to make the process simpler and easier without in any way depriving individuals from their rights. Justice is actually speedier."

Immigrant advocates disagree.

They say the process is too expedient and runs the risk of returning bona fide refugees to the dangers they are trying to escape.

Under federal law, foreigners bear the burden of proof in convincing an immigration officer or judge of their legitimate claim of



A cursory appearance in port court is not ample time, said the Rev. Thomas Wenski, Archbishop of Catholic Charities, which provides legal services for Haitian refugees in Dade, Broward and Palm Beach counties.

"The problem is that it doesn't really protect the rights of potential refugees," Wenski said. "A would-be refugee doesn't have much time to present his claim or collect his wits."

Wenski likened the port court to immigration officers assessing asylum claims aboard U.S. Coast Guard cutters loaded with Haitian or Cuban nationals during recent exoduses.

Attorneys representing refugees say they will monitor the port court for violations of refugees' rights and file lawsuits, if necessary.

Miami has the second largest number of international passengers in the country, behind New York's John F. Kennedy Airport. An INS staff of 224 inspectors at MIA review more than 25,000 documents a day.

On average, 50 passengers a day are either refused entry or withdraw their requests for entry after being detected by inspectors. The port court is expected to service about 20 cases a day.

"This is more the style of a kangaroo court," Wenski said. "It's just window dressing to give the appearance of fairness."

The port court operation is supposed to function in this manner:

Immigration inspections who are suspected of not having proper documents will be sent to a secondary inspection area. An inspector will examine the documents more closely and ask in-depth questions including where the documents were obtained and reason for entry.

Those with claims deemed unacceptable will be fingerprinted, photographed and asked whether they would like to see an immigration judge.

Those who decide they want legal representation will be sent to Krome. Those who agree to see the judge at the airport will be taken to one of three holding cells. A former inspection area has been renovated to accommodate the operation.

A clerk will then set the court date for the same day if possible (between the hours of 9 a.m. and 4:30 p.m.) or the next morning.

If the judge decides a claim for entry is not acceptable, the passenger will be put on the next flight out. Under federal law, the airline that flew the passenger in is responsible for returning the passenger home.

A formal "exclusion charge" will be entered in a computer bearing the names and other identification information for

Michael Hrinak, acting port director, and Annette Bywaters, rear, the acting associate port director, show off the new courtroom at Miami International Airport. The "port court" is operated by the Immigration and Naturalization Service and the Justice Department's Executive Office of Immigration Review and has one objective: to deter foreigners from trying to enter the country illegally. Those without documentation may find themselves on the next flight home.

STAR photo/JOE RASOLO

those foreigners who were denied entry. The charge means the judge has formally excluded them from entry into the United States.

Brian O'Leary, deputy chief judge for the Executive Office of Immigration Review in Washington, D.C., will assume the post for the first week. Miami immigration judges will then rotate the position for a testing period of six weeks. INS will then decide whether to maintain the operation and expand it to other airports around the nation.

Hrinak said if the two-year-old operation in California is any indication, Miami's port court will be successful. The number of people trying to enter with illegal or improper documents has dwindled, he said.

As in California's port court, those caught trying to enter the United States illegally after an exclusion charge has been rendered are barred from re-entry for five years. If they try again, they can be prosecuted.

"We expect this [port court] will have a tremendous deterrent value," Hrinak said. "People who want to enter the U.S. illegally will go elsewhere to do it because it will be very hard to do at Miami International Airport."

NOTICE OF CHANGE TO
NOTE ON THE FACE OF A PLAT

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SATURDAY, JUNE 29, 1996

How U.S. Immigration Officials Deceived a Group of Lawmakers

Justice Dept. Report Details an Elaborate Ruse

By ERIC SCHMITT

WASHINGTON, June 28 — Forty-eight hours before a group of influential House members visited the Immigration and Naturalization Service's Miami operations last June, the top field managers of the agency's local district were panicking.

The main detention center in Miami, designed to hold 226 immigrants, was bursting with 407, threatening serious health and security hazards. More than 50 women had to sleep on cots in the lobby of the center's medical clinic. Criminal detainees mixed with other immigrants, including children as young as 10 years old.

It was these conditions that touched off an elaborate deception and cover-up, detailed in a report by

the inspector general of the Justice Department, the immigration service's parent.

It was essential, the Miami immigration officials thought, to impress the seven-member delegation from Washington. So, with the blessing of two regional superiors, Valerie Blake, the Miami deputy district director, ordered an additional dozen inspectors on overtime pay and sent them to the airport to keep the immigration inspection lines flowing quickly. She told inspectors not to "whine" about staffing shortages and to lie if asked whether the airport's holding cells were occupied by aliens other than criminals.

Ms. Blake also directed that 58 detainees, several criminals among them, be released without screening. And, at a cost of \$13,867, she ordered that 45 other immigrants be sent on buses, with packed lunches, to a county jail in northwestern Florida or to an I.N.S. center in New Orleans and that they be kept there until the legislators left.

By about 1 P.M. on the day before the visit, Kathy Weiss, the detention center's administrator, had sent Ms. Blake an urgent electronic mail message, confirming execution of the deputy director's plan for the immigrants "to be stashed out of sight for cosmetic purposes."

Forty minutes later, Ms. Blake flashed an electronic response to her lieutenant: "Great work so far."

The outline of the elaborate scheme that Ms. Blake mapped out to deceive the lawmakers into thinking the Miami operation was a well-oiled machine was disclosed last week, in a summary of the inspector general's report, by Representative Elton Gallegly, a California Republican who headed the House delegation, which had been appointed by Speaker Newt Gingrich to examine immigration practices.

But a copy of the complete 197-page report, obtained by The New

Continued on Page 10, Column 4

Report Details Ruse by Immigration Aides

Continued From Page 1

York Times today from an official critical of I.N.S. operations, lays out in fine detail the last-minute ruses to which top immigration officials in Miami and at the agency's Eastern regional office, in Burlington, Vt., resorted, as well as their subsequent efforts to cover up their acts.

The report also describes how the officials were tripped up in large part by a trail of incriminating E-mail messages, some of which they had purged from their computers and which the inspector general, Michael R. Bromwich, reconstructed with the help of the Lotus Development Corporation, the software company. Investigators for the inspector general's office reviewed about 4,000 E-mail messages from backup tapes.

By the time the House members arrived on June 10, 1995, the Miami operation was so transformed that Mr. Gallegly marveled at how well one of the most challenging immigration portals in the country was coping with its problems.

But the elaborately orchestrated lie, the new report says, began to unravel when nearly 50 I.N.S. employees in Miami wrote to the lawmakers after their overnight visit to tell them they had been duped. When confronted with accusations of the deception, the field managers tried to cover it up, the report says.

For example, the report blamed Carol Chasse, the agency's Eastern regional director, for approving Ms. Blake's plan and then impeding the Justice Department inquiry by failing to give investigators important E-mail messages. In her six and a half hours of testimony to investigators, the report says, Ms. Chasse responded to questions by saying at least 245 times that she did not know the answer or could not recall.

Ms. Chasse last week denied any wrongdoing.

In response to the charges, the immigration service has transferred Ms. Chasse, Ms. Blake and two other top field managers to nonsupervisory jobs, pending a Justice Department review of possible disciplinary action and criminal prosecution. The two other managers are Ms. Chasse's deputy, Michael Devine, and Walter D. Cadman, the head of the

A frantic 48-hour operation of deception.

Miami district.

In addition, the House Judiciary Committee is expected to hold hearings in late July to determine whether operational problems and similar deception exist at other large immigration centers, like the one at San Diego.

The report by Mr. Bromwich recommends disciplinary action, ranging from reprimands to dismissal, for the four transferred officials and nine others. But Mr. Bromwich reserved his most searing criticism for Ms. Blake, who was promoted late last year, from her post in Miami to head of the agency's office in St. Paul. Mr. Bromwich urged her dismissal.

"The single person most responsible for orchestrating the effort to present a false picture to the task force was Valerie Blake," the report said. "But for Blake's actions, the events described herein would likely not have occurred."

The yearlong inquiry, based on 340 interviews and 200 sworn statements, continued, "In the process, she caused her subordinates to take deceitful actions about which they seemed to feel they had no choice, breeding cynicism and dishonesty within I.N.S."

An immigration service spokesman, Paul Risley, said that Ms. Blake was reluctant to comment on the findings until she had seen a copy of the report. Mr. Cadman and Mr. Levine could not be reached for comment, Mr. Risley said.

The lawmakers' imminent visit caused consternation at the highest levels of the agency weeks before they arrived. After a meeting with Doris Meissner, the immigration service Commissioner, on May 19, 1995, Mr. Cadman, the Miami district director, said in an E-mail message to his top aides and Ms. Chasse that "the Commissioner is very concerned that it would take very little to put the kiss of death" on the delegation's views toward the immigration service.

On June 2, 1995, Ms. Meissner held a teleconference call with Ms. Chasse, Mr. Cadman and others to discuss the coming visit. Ms. Meissner, according to the report, said she wanted to see the agency "putting its best foot forward" but told everyone not to distort normal operations.

But investigators said the message from Ms. Chasse on down was clear: no warts on display.

And so the charade was on — at least until the employees' letter to the Congressmen prompted Attorney General Janet Reno last year to order an investigation into what had happened.

In two memos to superiors, dated July 13 and July 17, 1995, senior immigration officials in Miami and in Vermont denied the charges the agency employees raised about the lawmakers' visit to the airport or at the detention center, the Krome Service Processing Center, a 15-acre complex in the Florida Everglades, about 25 miles southwest of Miami.

"I can assure you, unambiguously, that the Congressional delegation was not shown a 'Potemkin Village' when they visited any of the sites in this district," Mr. Cadman, the Miami district director, wrote in the July 13 memo.

The report found that Mr. Cadman's statement was false and, as he later conceded, that he knew it. While he did not initiate the actions, Mr. Cadman did "sit by and allow the deception to occur," and was "a willing participant," the report said.

The Latest Victims of I.N.S. Discrimination
at Miami's Krome Detention Center*

Officially it is known as the Krome North Service Processing Center. Nigerian Tony Ebibillo -- who was forcibly tranquilized, straight-jacketed, and beaten in efforts to deport him -- called it the "Krome North Persecution Center." Englishman Peter Medcraft -- who was deported in the middle of winter without his coat or his money -- dubbed it, a bit more dryly, "Krome Sweet Krome." Whatever its true name, Miami's Krome detention center is finding its way back into the spotlight, despite the best efforts of the Immigration and Naturalization Service (INS) to keep it invisible.

Krome, an isolated facility at the edge of the Everglades, has a history of invisibility. An April 1991 report on conditions there by the Minnesota Lawyers International Human Rights Committee and Physicians for Human Rights was even entitled *Hidden from View*; the delegation had made arrangements with the INS to enter the facility and speak with detainees there, but permission was revoked at the last minute. As a result, the report was largely based on affidavits and statements that local advocates had been collecting. The Haitian Refugee Center, with help from the American Friends Service Committee and a small group of private attorneys, had been concertedly documenting alleged abuses at Krome in 1989, 1990, and 1991. These included physical and sexual abuse; verbal abuse; arbitrary and punitive use of solitary confinement and transfers to remote facilities; inadequate medical care; and interference with attorney-client communication. The pressure of publicity eventually led to an FBI investigation on behalf of the Civil Rights Division of the Justice Department. Results of the investigation, which began in May 1990, have never been released.

In fact, a journalist who asked the Justice Department for those results this year was sent only a press release dated January 4, 1996, about an incident unrelated to the earlier investigation. But the press release does provide an official acknowledgement of a story that has a familiar ring to advocates. It announces that a Krome officer "has pled guilty to one felony count of . . . depriving a detainee . . . of his civil rights." Specifically, "after a verbal incident in the

* A version of this article appeared, translated into French, in the weekly *Haiti Progrès*, March 6-12, 1996.

cafeteria," the Krome officer, Edward Calejo, "escorted the detainee to the dormitory building and placed him in a small cell. Inside the cell Calejo, without warning or lawful justification, punched [the detainee] in the head. Calejo then kicked [him] and punched him multiple times about the head and body. . . . Later that day, in an effort to cover up what he had done, Calejo had other guards punch him in the chest and photograph the resulting injury to support a false report claiming [the detainee] was the aggressor. He also made attempts to persuade a witness to support his false report and tried to get the FBI to begin an investigation of the detainee." The attempted cover-up fits a pattern of "counter-charges" described by Americas Watch (now Human Rights Watch/Americas) in its reports of violence on the U.S.-Mexico border. "[B]eatings or other abuses" by immigration officials often occur after a person is "arrested, handcuffed, and subdued," wrote the group in *Brutality Unchecked* (May 1992). "By charging beating victims with assault on a federal officer and other felony charges, the agents sought to conceal their own misdeeds."

Over the years, the so-called "detainees" at Krome have issued many cries for help, and today they are making themselves heard again. In a letter sent to the INS and to local media in early February, 157 detained men wrote of severe overcrowding and unsanitary bathroom conditions (Andres Viglucci, "Inmates complain of crush at Krome," *Miami Herald*, 2/16/96). They also wrote of being locked out of bathrooms "like 'PIGS IN A STY,'" and of receiving a change of clothes only once a week (Krome inmates must wear bright orange uniforms). "If and when some of the men wash their own clothes while taking a shower," the letter continues, "officers have threatened to take their clothes that were hung on the fence or barbed wire and throw them in the garbage. Where or how else are we to dry our clothes???"

A subsequent letter from Nigerian detainee Ope-Agbe A. Bariu (aka "Barry") explains that the men's A-dormitory "is so crammed up, that if a man sleeping on the bed next to you (if you are lucky to get a bed), coughs, he will be doing so right in your face. . . . People are made to sleep in hallways and corridors. The hygiene and overcrowding constitutes a lot to the health problems of most detainees."

Bariu's letter includes other complaints all too familiar to those who know Krome's history. One is inadequate medical services: "The clinic is supposed to be a place you can go and get your illness taken care of as quickly as possible. Any clinic except the one at Krome. There have been several complaints about the

clinical staff by a lot of the detainees but no one listens." Another is the abusive treatment by immigration officers: "The officers here talk to and threaten all detainees. They say that they are God over us, and show no sign of respect. They put us through all sorts of emotional distress. If you as a detainee try to point this out to them, you get transported out of Krome, to any county jail of their choice. If you request to know why, their reasons normally are overcrowding, disobeying an officer, and it is an order from Washington." Underlying all of this is the basic fact-of-life at Krome: "The lack of communications on each detainees cases [sic], as well as the long periods by which they are being held is a serious issue. Apart from the mental stress and psychological torture we face every day by the officers, the long periods we have to wait for our case[s] gives us a lot more stress. A lot of people have been held at Krome for 8 months and more without any headway with their case."

Bariu himself has spent some 14 months at Krome, he says, and in that time has been transferred back and forth to about six county jails in Florida. These transfers are a source of revenue for county governments. To take one example, the Sheriff's Department in Leon County, Florida, was seeking a contract with the INS to jail refugees under terms which would yield \$2 million profit (Tony Welch, "Haitian refugees may bring revenue, fill beds at new jail," *Tallahassee Democrat*, 2/21/93). In 1993, Kenneth Powers, Assistant District Director for Detention and Deportation, said that a jail in northern Florida "has been calling us repeatedly to bring back some business for them."

Transfers play another role, too. Detainees have long seen them as a form of intimidation and punishment. Bariu reported that on one of those recent days when Florida temperatures reached lows in the 30's, some detainees covered their heads with towels to keep warm. An immigration officer threatened Bariu, saying that if he saw him again with a towel on his head, he would transfer him to the Monroe County Jail in Key West. When Bariu's name appeared in the *Miami Herald* story on Krome, the same lieutenant approached him again. "'You put up a good show . . . I saw your handiwork,'" Bariu says the officer told him. Bariu was in the clinic for chest pains the day after the *Herald* story appeared, and a number of immigration officials came by to see him there, to put a face with the name; PHS (Public Health Service) employees -- technically a separate entity from the INS -- pointed him out to INS officials, says Bariu.

Five days later, Bariu was in fact transferred to Key West. But "before they did take me, they beat the shit out of me," he said on the phone from the jail. A

group led by the same lieutenant and including eight officers "rushed" Bariu when he said he was not a criminal, should not be handcuffed, and asked for time to collect his files from a Krome administrator. He reported injuries to his head, ribs, shoulder, face, and knee. "I didn't provoke it," he said, adding that he has collected the signatures of eight or nine witnesses to the incident who watched from a waiting bus.

Bariu was then cuffed with his hands behind his back, and his legs were shackled. He was taken in that condition to the clinic, where an INS officer told a clinic employee "to get the doctors to write . . . [that] he got into a fight here, that's why we're shipping him out." He remained cuffed and shackled while he was given an EKG; then he was given an Advil to "ease the pain." In the clinic, the lieutenant said to him, "'The only way you're going to stay here in Krome is over my dead body.'" "They intimidate people there at Krome," Bariu said. "That's why none of those guys want to say anything . . . They're scared." A total of twenty-three men and two women were reportedly transferred to the jail.

The persistent lack of accountability at Krome is as clear as ever. The officer who targeted Bariu has been the object of complaints before. In 1991, Nigerian Tony Ebibillo was among a group of detainees who lined up to show their blue, plastic identification cards to an officer who was checking to see who was eligible for release. When Ebibillo reached the front of the line, he later said, the lieutenant told him, "'Get the fuck out of my face. You Nigerians, I can only help you to stay in Krome and not to get out.'" (Ebibillo was also targeted by the INS for his resistance, in particular his participation in the hunger strike of August 1991, which brought together detainees of many nationalities. INS successfully deported Ebibillo in December 1993, on a chartered plane which carried 83 Nigerian prisoners.)

Today, Ope-Agbe Bariu's accusation of the same officer sounds familiar: he "dislikes Africans but hates Nigerians in particular, with a passion," Bariu wrote in his February 6th letter. "His reason being that Nigerians feel like they know it all and they are a little bit too smart for themselves. These are his words to the Nigerian detainees at Krome." There are currently nine Nigerians held at Krome, according to the INS. Randolph McGrorty is the supervising attorney at the Haitian Catholic Center Legal Project, which represents one of those Nigerians. "I think that Nigerians have become the new despised group--or Africans in general," said McGrorty at a recent Miami forum on the plight of immigrants in detention. "I had a staff person at Krome tell me how, well, we

don't like to parole [INS parlance for "release"] Nigerians because they lie--it's part of their culture."

The discrimination extends to INS officers who try to help Africans. Archie L. Graham worked as an INS investigator in Philadelphia in the 1980's. He told the *New York Times* that "he felt particularly uneasy with two agents called 'the African killers' because they singled out black immigrants from Nigeria and Sierra Leone. 'They went out specially for them, and they'd tear up their papers and throw them away,' he said. 'I didn't go along with it. I'd say, "That's not right." They'd say: "You don't like it, go back where you came from. Go back to Africa. We'll deport you"' (Deborah Sontag, "Black Officers in I.N.S. Push Racial Boundaries," 10/30/94).

In another reported act of intimidation this week [in February], an officer entered one of the men's dormitory areas "shouting [and] boasting." He dropped his own pants and asked detainees "if we're man enough to fuck his ass." If not, then "he'll fuck our ass." Some 70 men witnessed this, according to the African detainee who reported it. Then a second officer said that "anyone who calls himself a man [should] come out." The African stepped forward, saying he did not want to fight, but "I said I'm a man [and] you shouldn't challenge us." The African man was then taken out of the dorm, apparently charged with challenging an officer, and he too was told that he would be transferred to the Monroe County Jail.

Another detainee said this week: "There's a lot of politics going on here in Krome against the Africans. We have no one here to fight for us [as the Cubans and Haitians do]. . . . We are being rejected here as we are all over the continent [of Europe]." He fears the repercussions of speaking publicly, and added, "We are really scared here because our life is just nothing to them here." Another African, detained for a year while he waits for a decision on the appeal of his political asylum application -- even though U.S. citizen sponsors have come forward to guarantee his appearance at proceedings and to support him financially -- also expressed his fear. "If you come in and I talk to you . . . maybe two days after you left, I will be taken to jail . . . no one [is] going to hear about me."

Meanwhile, Krome remains overcrowded. Its official capacity is 226, but INS spokesperson Lamar Wooley says that that number can be stretched without a problem. As of February 21st, Krome held 341 persons, forty-eight of them women. The largest groups are Haitians (39), Cubans (37), Jamaicans (34), Chinese (26), and Mexicans (23).

But INS will not reveal much more than the numbers. In late January (before the detainees released their letters), District Director Cadman turned down a request by a group of eleven Miami writers and photojournalists to tour Krome. Spokesperson Wooley explained that "nothing unusual has happened or is happening to warrant this type of coverage. . . . obviously there has to be a reason to disrupt the routine at the Krome facility." The group, which includes representatives of the *Washington Post*, the *Los Angeles Times*, the *Miami Herald*, Reuters news agency, Miami's alternative weekly *New Times*, and myself, has appealed the decision to INS Commissioner Doris Meissner. One of the Nigerians currently at Krome gave this assessment of the INS's refusal to grant access to the press and other investigators: "That means the same thing that's happening in my country is happening here," he said. "You try to stand up for anything, they knock you down."

—Mark Dow

Krome detainee accuses guards of assault

Bariu 'Barry' Ope-Agbe, a Nigerian asylum-seeker, said he was beaten in retaliation for speaking out against filthy, crowded conditions.

By ANDRES VIGLUCCI
Herald Staff Writer

A Nigerian man who circulated a petition complaining about severe crowding at the Krome Detention Center says he was beaten by guards and transferred to the Monroe County Jail in retaliation for speaking out.

Bariu "Barry" Ope-Agbe, an asylum-seeker who has spent 14 months in immigration detention, said he was bruised and scratched when he was "assaulted" by two guards. The incident occurred five days after he was quoted in *The Herald*.

The U.S. Immigration and Naturalization service acknowledged that a "scuffle" occurred between Ope-Agbe and the guards, but a spokesman said the detainee started it by physically resisting the transfer to Monroe County.

"He fought with the officers, and he injured one," said INS spokesman Lemar Wooley. "The officers did only what was necessary to defend them-

selves. They were only doing their job."

Wooley said he didn't know whether the officer claimed Ope-Agbe hit him, or whether he was hurt trying to subdue the detainee. Wooley also didn't know how seriously the guard was hurt, but said he required treatment at the Krome clinic and was referred to his doctor for further care.

Ope-Agbe claims he offered no physical resistance. In a phone interview from the jail, Ope-Agbe said a guard punched him in the head and knocked him to the floor when he verbally refused orders to submit to being handcuffed for the transfer Wednesday afternoon.

According to Ope-Agbe, 30, one of the guards told him, "That's what you get for being too nosy."

Ope-Agbe was 1 of 24 detainees being transferred out of Krome to relieve crowding, and was not being singled out for speaking out, Wooley said. Those detainees picked for transfer, including Ope-Agbe, have no pending court dates that would require them to be kept at Krome, Wooley said.

But Cheryl Little, executive director of the Florida Immigrant Advocacy Center, said she was looking into Ope-Agbe's treatment to decide whether to file a formal complaint. She said INS in the past has sometimes used transfers out of Krome to local jails to punish detainees who complain about their treatment.

"I'm very concerned this is retaliation," Little said.

In 1990, the FBI investigated scores of complaints by Krome detainees about abusive treatment by INS officers, but the findings have not been released.

Another Krome detainee quoted in *The Herald's* article, Pete Gonzalez, said Friday he has not been bothered by guards. But he said relations between the guards and the male detainees have been tense because of crowding at Krome. He said some guards have launched obscenity-filled tirades in verbal arguments with detainees in the past few days.

Ope-Agbe helped draft and circulate a petition that was signed by 157 male detainees. Among other complaints, the petition claimed that scarce bathrooms at Krome are often awash in water and

filth, and that detainees are forced to sleep on cots in hallways and doorways.

After *The Herald* story appeared, Ope-Agbe claims, one of the guards involved in Wednesday's altercation told him: "I saw your handiwork."

On Wednesday afternoon, that guard and another approached him and told him he was being transferred. Ope-Agbe said his request to speak to a lawyer was denied.

"They were going to cuff me. I said, 'No, I haven't done anything to warrant getting cuffed up.' One of them punched me from behind on the head," Ope-Agbe said. "They pushed me down, someone kned me on the ribs, and I have a bruised knee. I am very sore."

Ope-Agbe said he was shackled, then "passed out." He said he was examined and "cleaned up" at the Krome clinic, then put on the bus to Monroe.

Wooley, the INS spokesman, said Ope-Agbe was not hurt and did not require medical treatment.

LOCAL

The Herald

SECTION
FRIDAY,
FEBRUARY 16, 1996

B

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Inmates complain of crush at Krome

By ANDRES VIGLUCCI
Herald Staff Writer

Crowding at the Krome Detention Center has become so severe that scores of men sleep on cots in hallways and doorways, scarce toilets overflow and leave bathroom floors awash in filthy puddles, and inmates get just one weekly change of clothes, detainees say.

Krome, a federal holding facility in West Dade for people who enter the country illegally, now houses 355 men and women, 57 percent over its official capacity of 226.

Detainees and their lawyers say Krome cannot cope with the numbers. In a highly unusual step, 157 male detainees recently signed a notarized petition detailing com-

WHY IT'S SO CROWDED

■ **The INS blames** longer detention of Cuban refugees under the tougher Clinton administration policy and high numbers of people arriving with little or no documentation who are held while their claims are heard.

■ **Some immigration attorneys** say the crowding may be driven by stricter treatment of illegal arrivals. They say it has become increasingly difficult to obtain release of their clients on parole.

plaints and demanding improvements.

One men's dorm holds so many cots and bunks crammed close together that there is barely space to get in and out, Bariu Ope-Agbe, a Nigerian asylum-seeker who helped circulate the petition, said in a phone interview.

"There is just way too many people. People sleeping by the doorways, by the toilets. It's deplorable. There is very little space to squeeze yourself through. If there is a fire here, everyone is going to die."

The INS concedes that Krome is crowded, that it can be difficult to keep bathrooms clean all the time and that detainees do sleep in hallways. But INS spokesman Lemar Wooley said plumbing is checked daily, and problems are quickly corrected.

"Obviously, we are overcrowded," he said. "Things like that do come up, but they're fixed as soon as possible."

Wooley blamed some of the toilet prob-

PLEASE SEE KROME, 4B

Krome detainees complain

KROME, FROM 1B

Items on abuse or detainees' "lack of knowledge" of how to use public bathrooms. He also said detainees are being given the normal allotment of two changes of clothing a week, not one as their petition asserts.

The reasons for the crowding are unclear. Krome's population has been running at well more than 300 for months, hitting a high of 488 last fall, when outdoor tents were used to house the overflow, Wooley said. The four largest national groups are from Cuba, Haiti, Jamaica and India.

Wooley blamed the overpopulation on two factors:

First, longer detention for Cuban refugees, 38 of whom are now being held at Krome under the tougher Clinton administration policy; and, second, the high numbers of people arriving in Miami with little or no documentation. In such cases, it has long been INS policy to detain them while their claims are heard in immigration court, Wooley said.

But some immigration attorneys say the crowding may be driven by stricter treatment of

illegal arrivals. They say it has become increasingly difficult to obtain release of their clients on parole while their cases are pending, meaning that more people are being detained for longer periods of time.

"President Clinton running for re-election is certainly a factor," said Lourdes Fernandez, a Miami immigration attorney. "The administration wants to appear really tough on illegal immigration."

The Krome situation will be the focus of a forum today at the University of Miami School of Law.

The allegations about conditions at Krome, a secluded camp surrounded by barbed wire on the edge of the Everglades, came to light when lawyers helping organize the forum gave questionnaires to their detained clients. Some responded by organizing the petition, which was sent to the INS and The Herald.

Like many others, one of Fernandez's clients, a Colombian man now at Krome, is complaining bitterly about sanitary and hygienic conditions there, she

FORUM ON INS DETENTION

The People of the Golden Vision, an Interfaith coalition of groups that advocate immigrants' rights, will hold a forum from 9 a.m. to 5 p.m. today on INS detention in Room 265 at the University of Miami School of Law, 1311 Miller Dr., Coral Gables. The suggested registration fee is \$10.

said. "He's very upset that they only give him a change of clothing once a week. He says it's disgusting," said Fernandez, who would not divulge her client's name without his authorization.

Inside Krome, some detainees say, conditions have become nearly intolerable, particularly for the 304 men now held there. Ope-Agbe contends the poor conditions are a deliberate form of "psychological torture," intended to get asylum-seekers such as himself to give up their claims and accept "voluntary" deportation.

Crowded sleeping quarters have become breeding grounds for colds and flus, said detainee Pete Gonzalez, 34, a Honduran picked up by INS agents in West Palm Beach after eight years in the country.

During the day, male detainees are locked out in the yard for

hours, often refused access to restrooms — but only while they are being cleaned, INS said. Because there are only a few benches, many must sit in the dirt, soiling uniforms they're allowed to change only once a week, the petition says. If prisoners wash their clothes or underwear in showers and hang them up to dry, guards threaten to throw them out, Gonzalez said.

"They treat people here like a child, people having to ask permission to go to the bathroom at certain times," he said. "It's not supposed to be like that."

There are about a dozen overworked toilets. They have automatic flushing systems that frequently don't work.

"The stench of feces and urine can kill you," Ope-Agbe said.

Said Gonzalez: "There is water everywhere, on the floor, toilet paper on the floor. It's disgusting, man. They can't keep it clean."

**U.S. Department of Justice**

*United States Attorney
Southern District of Florida*

99 N.E. 4 Street, Suite 808
Miami, Florida 33132-2111

January 4, 1996

NEWS RELEASE: FORMER KROME GUARD BEATING DETAINEE

Kendall Coffey, United States Attorney for the Southern District of Florida, Deval L. Patrick, Assistant Attorney General of the Civil Rights Division, and Paul Phillips, Special Agent in Charge of the Federal Bureau of Investigation, announce today that **EDWARD CALEJO** has pled guilty to one felony count of violating 18 U.S.C. § 242 for depriving a detainee at the INS-Krome Processing Center in Homestead, Florida of his civil rights. The basis of the plea was that Calejo beat a Haitian detainee in his custody on September 5, 1993. Calejo, who was suspended without pay by the INS when he was indicted in the case last April, was working as a Detention Enforcement Officer at Krome at the time of the incident.

Calejo became angry with Bernard, a non criminal detainee, after a verbal incident in the cafeteria. He then escorted the detainee to the dormitory building and placed him in a small cell. Inside the cell Calejo, without warning or lawful justification, punched Bernard in the head. Calejo then kicked Bernard and punched him multiple times about the head and body. Bernard posed no threat to his safety, Calejo admitted in court today.

Later that day, in an effort to cover up what had he had done, Calejo had other guards punch him in the chest and photograph the resulting injury to support a false report he filed claiming Bernard was the aggressor. He also made attempts to persuade a witness to support his false report and tried to get the FBI to begin an investigation of the detainee.

"This successful prosecution and the defendant's guilty plea demonstrate our commitment to protecting the rights of all inhabitants of our country," said Assistant U.S. Attorney Mary K. Butler. "It also shows the ability of the federal government to police itself when confronted with criminal misconduct."

"This case represents a victory in our ongoing efforts to prosecute those who commit acts of police brutality," said Deval L. Patrick, Assistant Attorney General, U.S. Department of Justice, Civil Rights Division. "The message is clear - even in the face of efforts to obstruct a federal investigation, we will bring the perpetrators of police brutality to justice."

The defendant faces maximum penalty of ten years imprisonment, restitution, and fines of up to \$250,000. The actual sentence will be determined by Judge Federico Moreno after a presentence report is prepared. The sentencing date has been set for May 21, 1995. Calejo's plea to Count One of the indictment, which involved the central charge in the case, violation of civil rights, will resolve all pending charges against him. The other three counts of the indictment dealt with Calejo's efforts to cover up the beating.

The case was investigated by the Federal Bureau of Investigation. The case agent was FBI Special Agent Keith Hicks and both Coffey and Patrick complimented the FBI on its thorough and professional investigation. The case was jointly prosecuted by the United States Attorney's Office and the Civil Rights Division.

The prosecutors assigned the case were AUSA Mary K. Butler from the Southern District of Florida and Steven M. Dettelbach, Trial Attorney, U.S. Department of Justice, Civil Rights Division, Washington, D.C.

Two-faced immigration policy

By announcing a tough new detention policy for Cubans, then ignoring it, the INS sacrificed rules for the sake of political expediency

THE Clinton administration is trying to have its cake and eat it too, by masking humane deeds with anti-refugee rhetoric. While pretending to take a hard line on Cuban refugees, the Justice Department's Immigration and Naturalization Service (INS) has quietly released Cuban refugees detained in U.S. immigration jails.

Paroling Cuban refugees is the right thing to do. But in announcing tough new detention rules for Cubans, the INS flouted longstanding immigration regulations and policy for the sake of political expediency and showed how little its own rules matter. Members of less-favored nationalities such as Haitians have every reason to worry about the ease with which administration officials pick and choose which laws and rules they want to enforce.

In response to the August refugee exodus from Cuba, Attorney General Janet Reno declared a hard-line policy in which Cubans picked up at sea would be sent to camps at Guantánamo Naval Station and in Panama. Cubans who reached the U.S. mainland would be sent to immigration jails in the United States.

None of the roughly 30,000 Cubans detained at Guantánamo and Panama, 600 at Krome Service Processing Center in South Dade, or 150 in Port Isabel, Texas, would be eligible for parole into the United States, according to Reno. Cubans detained in Guantánamo and Panama would first have to return to Cuban to apply for visas. Cubans detained at Krome and Port Isabel would have to appear before immigration judges to prove entitlement to refugee status before being released from detention.

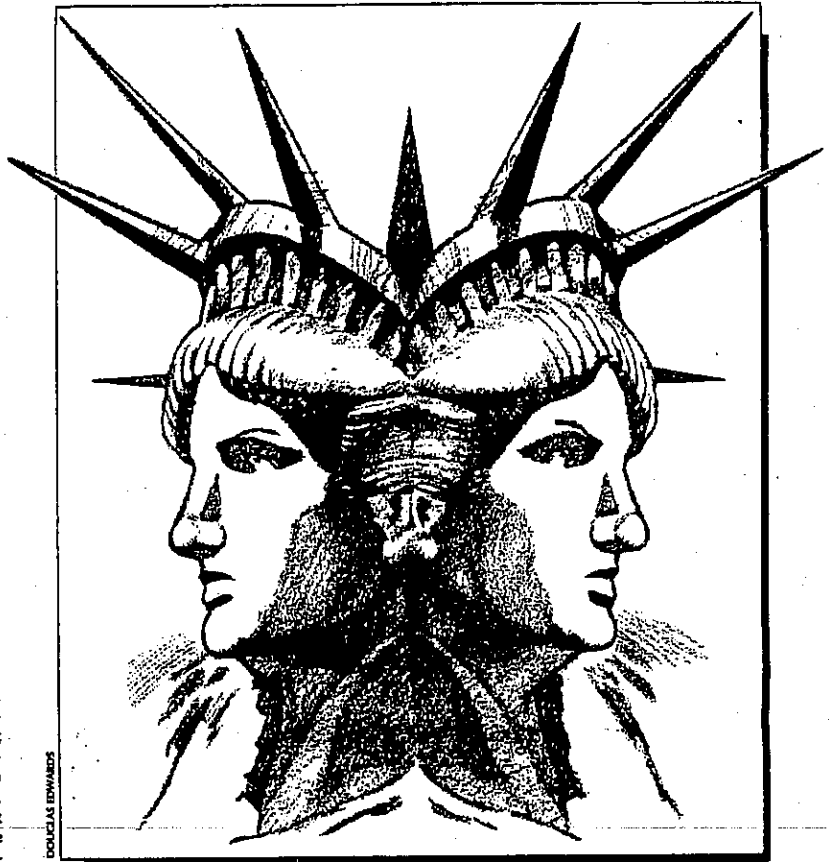
This policy reversed the decades-old practice by which Cubans picked up at sea or who reached U.S. shores were released into the community to await a chance to apply for permanent residence. Under the 1966 Cuban Adjustment Act, nearly all Cubans are eligible for permanent residence one year after they are admitted or paroled into the United States.

Despite the tough talk, since August, virtually all the Cubans at Krome and Port Isabel have been quietly paroled into the United States through refugee resettlement agencies. Lawyers representing clients at Krome learned of the parole after the fact, which INS employees then confirmed.

But the INS never officially announced a change in policy. Despite wide media coverage of the Guantánamo Cubans, the parole of the Krome and Texas detainees never has been reported.

The administration started backpedaling on its rhetoric as soon as a challenge arose — a suit on behalf of children detained at Krome. Making that issue moot, Deputy INS Commissioner Chris Sale issued a memo on Sept. 14 that changed the no-parole policy.

The memo's scope was far broader than children, however. Sale authorized the parole of unaccompanied children, accompanied children and "the best possible care giver," plus other



persons "presenting compelling humanitarian concerns" on a "case by case basis."

In late September, children and primary care givers — generally mothers — were released from Krome, followed by the other parents. Those with medical problems were paroled. By Thanksgiving, all but a handful of Cuban detainees with criminal problems had been paroled.

Both the lock-them-all-up policy and the Sale memo effectively revoked the parole regulations. Yet the Justice Department made this sweeping revision without going through a formal modification procedure, as the U.S. Administrative Procedure Act would seem to require.

The entire episode leaves as precedent the INS's self-declared power to restrict parole for refugees. The precedent of claiming the power to suspend refugee rights for foreign policy considerations is a dangerous and illegal one. The Refugee Act of 1980 recognizes that the refugee's need for protection from persecution overrides traditional political considerations. Under the law, persecution is persecution, whether practiced by communists, fascists or religious leaders.

While the parole made a mockery of the tough talk administration officials spouted last August, it makes sense. Detaining the Cuban refugees was unfair to them, burdensome to the immigration court system, and costly to American taxpayers.

Because the INS detained the Cu-

bans, albeit briefly, the agency was legally obliged to start exclusion proceedings against them, a process that wastes time and money.

The Cuban detainees had to appear in immigration court at Krome. Many hired lawyers to represent them or were represented through a large contingent of volunteer lawyers.

After the parole, the immigration court cases will continue. Former detainees will receive notices to appear in immigration court in downtown Miami, where they will be required to answer immigration charges against them, submit asylum applications, and in some cases actually have their asylum hearings.

A year after parole, virtually all these ex-detainees will qualify for residence under the Cuban Adjustment Act, making the asylum process unnecessary for most of them. The immigration court cases then become a meaningless exercise and a waste of taxpayer money.

The INS did the right thing in paroling the Cubans at Krome and Port Isabel. But in the process, the service was able to announce a hard-line policy while it quietly went about paroling the very detainees it announced it was not paroling.

The INS's casual twisting of the rules for the most-favored group strengthens its claim to do even worse to less favored refugees, especially in these anti-immigrant times. Other nationalities will suffer from a hard-line policy that was announced for Cubans but never really applied to them. ■

Joan Friedland and Beatriz Zúñiga McKey are partners in the immigration firm Friedland and McKey in Coral Gables.

U.S. Accused Of Sedating Deportees

Tranquilizers Given To Those Who Resist

By William Booth
Washington Post Staff Writer

MIAMI, Oct. 6—On the third attempt to deport Tony Ebiaballo Eboke, an American Airlines pilot ordered the illegal immigrant off the plane. Grogged, groaning and surrounded by four officers, one with a syringe, the Nigerian had been dragged at the direction of immigration authorities.

Ebiaballo, who resisted deportation from Miami International Airport, had been strapped to a bed at Krone Detention Center here for two days and injected repeatedly with tranquilizers and antipsychotic drugs, medical records show, although he had not been diagnosed as psychotic.

Events surrounding his two-year case have raised concern about methods used by the Immigration and Naturalization Service and Public Health Service physicians to control difficult, violent or stubborn deportees guilty of no crime other than being in this country illegally.

Drugs are used routinely but only after detainees are diagnosed as mentally ill and declared by a physician or nurse to "pose an immediate danger to themselves and others," according to Ada Rivera, chief health services physician at Krone. But a review of Ebiaballo's medical records shows that he was not found mentally ill yet was given powerful antipsychotic drugs, apparently to control him during deportation.

It could not be determined how often drugs are used during deportations from Krone or other detention facilities. About 36,000 people

See DEPORTATION, A20 Col. 3

The Washington Post, Thursday, October 7, 1993, A1, A20

Nigerian Sedated After Resisting U.S. Deportation

"It is not even a gray area. It is not ethical or legal to take difficult-to-handle people, even violent criminals, and drug them to make less violent. It would be like a doctor raking around with the police and injecting violent offenders."

Medical and legal authorities, Bloch said, are particularly wary of placing such power in the hands of physicians working behind closed doors, such as those in detention centers, particularly if physicians and nurses alone can make such decisions.

Rivera, one of those who orders drugs for detainees, including Ebiaballo, said that she would not discuss specific cases but that it was not uncommon to tranquilize detainees deemed mentally ill or violent.

"If they're necessary," we administer drugs," Rivera said. "Sometimes, you might be saving a life. Each provider has to make their own decision. Does this situation merit it or not?"

Rivera said administering drugs would be appropriate if a detainee were suicidal. But she also said drugs could be used when a detainee "is lacking and bawling and screaming" while being sent home. Physical restraints most of time are not enough," she said.

In a telephone interview from Fort Lauderdale City Jail where he still awaits deportation, Ebiaballo said he did not want to be dragged out of the airport after being a bail for political asylum. Ebiaballo said he thought that he would be killed if returned to Nigeria because of his and his father's political statements.

In October 1991, Ebiaballo refused to board a plane here, and a month later he succeeded in resisting deportation by kicking and biting his guards at the airport. On the third try, on Dec. 6 that year, he said, "I was, in my cell, about five agents tied me in chain and handcuffed me with handcuffs, shackles and chains around my waist and neck to demonstrate to other inmates, to intimidate them."

"Then they took me to the clinic, removed the chains, tied me face down to the bed with padlocks behind me. I could hardly breathe. As they gave me injections, they were saying, 'You're going to wake up in Nigeria.'"

During his two days in the clinic, Dec. 6 and 7, his medical records noted: "Patient requesting to know how many more injections he'll receive" and "patient . . . asking what is this for?"

Immediately before being taken to the airport, records show, Ebiaballo was given more tranquilizers. "I was not aware," he said. "I was like a dead man."

When he reached the airport, Ebiaballo was in a straightjacket, with 10-pound weights on his ankles and his mouth taped because he had tried to bite INS officers, said Kimberly Bomba, an INS deportation officer. Ebiaballo was injected with "medication" 30 minutes before his flight "to calm his violence," she said.

But the pilot of the plane, bound for a connection in Rio de Janeiro to Nigeria, refused to take off with Ebiaballo aboard. Airline supervisor Vassili Euprosimios told investigators that Ebiaballo was surrounded by four guards, "one of whom was holding a syringe."

Returned to Krone, Ebiaballo was placed on "suicide watch," although suicidal tendencies had never been mentioned in his records. Assault charges were filed but later dropped for resisting deportation by kicking and biting.

"The reason they dismissed the charges against Tony is that the INS dropped him up with thorazine, and that's what you do with mental patients," said Lori Barquist, an assistant public defender who represented him. "He's a passive person. . . . That's the way they think of them, and that's the way they treat them, as almost subhuman."

Arthur Helton, director of the Refugee Project for the Lawyers Committee for Human Rights in New York, said, "This sounds like an extraordinary procedure, and it seems there must be some kind of review process so the use of drugs is not abused by local enforcement personnel."

Cheyl Little, a Florida Rural Legal Services lawyer representing Ebiaballo, said, "We know that some people resist being deported, but this is an inhumane response to the problem. This is just too creepy."

Special correspondent Christine Sherry contributed to this report.

More Haitians being freed from Krome

By ANDREW VOLLUCCI

In a quiet but significant turnaround, Haitian refugees are being released in high numbers from the Krome Detention Center, where many have spent months locked up while waiting for political asylum.

The change is the work of one man: Walter D. Cadman, the new district director for the U.S. Immigration and Naturalization Service in Florida, who has relaxed detention policies that

Under INS district director Walter Cadman's relaxed detention policies, 71 Haitians remain at the camp, down from 159 in January.

advocates for Haitian refugees have long criticized as arbitrary and discriminatory.

"Mr. Cadman is like night and day from the previous administration," said Steven Forester, an attorney for the Haitian Refugee Center in Miami, which represents asylum-seekers. "He some-

times says yes to our requests; he sometimes says no, but he seems fair."

The INS policy of detaining Haitian asylum-seekers indefinitely at Krome and other facilities has been one of the sorest points of contention between the federal government and the Hai-

has singled them out for harsh treatment.

The controversy reached a new peak in December, when Cuban refugees who commandeered an airplane to Miami were promptly released from Krome, while Haitian refugees smuggled aboard freighters were sent to jails in North and Central Florida.

Cadman took over the INS Florida district in January just as a dramatic hunger strike by Hai-

BOUGHT BALANCED
APPROACH: Walter D. Cadman

PLEASE SEE KROME, 1A

More Haitians freed from Krome while seeking asylum

KROME, FROM 1A

refugees, prompted by the alleged disparities in treatment, came to an end at Krome with no concessions from immigration authorities.

Since then, according to Cadman's figures, at least 319 Haitians have been released from detention on parole, including scores of refugees who were being held in upstairs jails.

Only 71 Haitians remain at Krome today, down significantly from six months ago, when 159 Haitian men and women participated in the hunger strike. None remain upstairs.

In an interview, Cadman confirmed the figures represent a higher percentage of Haitian detainees than were paroled under his predecessors. He couldn't say precisely how much higher, though, because parole statistics weren't kept before his arrival.

Immigration law gives INS district administrators wide latitude in deciding whether to detain applicants for asylum or release them on parole while their cases are decided, a process that can take more than a year.

Cadman would not directly address previous administrators' parole policy. But he suggested that a lack of clear instructions to INS parole officers resulted in low approval rates for detained Haitians.

"Sometimes the bureaucratic instinct was, if unsure, to deny a request," Cadman said. "It was safer."

But Cadman said he has not thrown open the doors to Krome, which at mid-week held 238 people from different countries, including 71 Haitians.

"I don't want to make it sound like I'm so good-hearted and liberal that everyone is getting out. That's not the case," Cadman said. "I would dis-

Search for balance

Cadman concedes the more-generous parole policy carries some risks. Nationally, he said, about a third of asylum applicants who are paroled disappear, usually when they sense the case is going against them.

Because many of the asylum cases now pending won't be resolved for months, Cadman said, he is uncertain whether his easing of parole requirements will lead to more absconders.

"If you were to ask me, 'Have we made the right decision in every case?' I would have to say I don't know," he said. "I hope I've struck the right bal-

PAROLES

Haitian refugees, normally detained for months, are being paroled in increasing numbers since Walter D. Cadman took over as Florida's immigration director.

Date	Haitians	Others
1/93	41	12
2/93	134	57
3/93	72	46
4/93	69	50
5/93	203	79
Total	519	244

To decide parole requests, INS officers first must ensure that detainees pose no threat to the community. Then the officers must confirm that there is someone, preferably a close relative, who can house and feed the refugee — and, most importantly, offer some assurance that the applicant will show up for hearings until the asylum case is decided.

Cadman said he has issued more explicit guidelines to parole officers that provide them greater flexibility in approving requests. Where incomplete parole applications were usually rejected, Cadman said, he has now told officers to seek out the missing information. He also eased strict requirements for proof of identity, because documents such as birth certificates are often impossible to retrieve from Haiti.

Phony document policy

In the past, he said, such requirements often led refugees to buy phony certificates, feeding an illicit document industry. When such subterfuges were discovered, parole requests were usually rejected. The INS is now also willing to overlook it when applicants who otherwise qualify for parole have used phony documents, Cadman said.

"You may hear some people say that I've gone too far, that I've bent over backwards," Cadman said. "I don't think that's the case. This agency can't lock everyone up. It's just not doable."

Still, advocates for refugees say the change in parole policy is obvious.

Cheryl Little, an attorney for Florida Rural Legal Services in Miami and a longtime INS critic,

said Cadman listened to advocates' complaints at a meeting shortly after his arrival.

"It's my sense he was determined to change things for the better," Little said. "It's certainly been more pleasant dealing with Mr. Cadman than his predecessors."

The advocates are not yet ready to say all is well, however. The Haitian Refugee Center has a lawsuit against INS pending in federal court over the issues of allegedly discriminatory detention and lawyers' access to Krome. Other Haitian refugees remain detained in Texas and Louisiana, where they were transferred from Florida.

And Little says Haitian detainees who don't have attorneys continue to have a hard time obtaining parole.

Hunger strike continues for some

Detainees leveling
charges of abuse

By ANDRES VIOLUCCI
And HAROLD MAASS
Herald Staff Writer

At least a handful of Haitian refugees, and possibly as many as a few dozen, continued holding out on a hunger strike Friday at the Krome Detention Center, even though most of the detainees have resumed eating.

The situation at Krome was marked by confusion for a second straight day.

Federal immigration officials said six men, and possibly some women, continued to refuse food. Despite the holdouts, the immigration officials said they consider the eight-day fast, which at its peak totaled 160 participants, to be essentially over.

"Basically it's been broken," said Duke Austin, a spokesman for the U.S. Immigration and Naturalization Service in Washington, D.C.

But lawyers and refugee advocates who visited the detainees Friday insisted the strike is not over. All but one of the 40 women who joined the fast last weekend claim they remain on strike, the advocates said.

"We confirmed that 39 women are still on a hunger strike, and they're getting weaker," said Neil Afran, a New York law professor working on behalf of the Haitian Refugee Center. "Some of them look very, very weak."

The detainees also claimed they were threatened by Krome guards with physical harm or jail if they didn't eat, the advocates said.

Austin, the INS spokesman,

PLEASE SEE HAITIANS, 4B

Haitian holdouts continue hunger strike against INS

HAITIANS, FROM 1B

"categorically" denied the allegations of physical threats. But he said the agency is looking into reports that officers threatened the female strikers with jail.

The status of the hunger strike and the claims of threats were impossible to confirm independently Friday, because the INS has refused to allow the news media into Krome.

The hunger strikers, most of whom began their fast on New Year's Eve, were protesting the quick release by INS of 48 Cuban defectors who commandeered an airliner from Havana to Miami. The Haitians had issued only one demand — to be released from Krome to pursue political asylum claims in freedom.

The INS, which refused to grant any concessions, says most of the strikers broke their fast Thursday evening.

The INS maintains that most of the women ate at least a small amount of food Thursday evening. The agency also says that fruit delivered to the women's quarters that night was gone by morning.

But at least some of the women didn't eat breakfast and lunch Friday, acknowledged Carol Chasse, acting INS district director in Miami. Because snacks have been made available to the women, Chasse said, she didn't know how many might be fasting.

Tenabrin Beaubrun, the father of one of the female strikers, said his daughter seemed determined to continue her fast, when he spoke to her Friday on the phone.

"I talked to her for a few minutes this morning. She said she

was very weak and couldn't talk long," Beaubrun said. "I begged her to eat, but she said if she eats they will lose their struggle."

Chasse said the women have made no statements, so she was uncertain whether they had decided to resume their fast Friday.

"They didn't all eat breakfast and they didn't all eat lunch. Some of them did and some of them didn't," Chasse said.

Attorneys for the strikers, citing reports from their clients, said the six men who are still striking were segregated from the rest of the population, although Chasse denied they have been placed in isolation cells.

A group of attorneys, interviewers and translators from the Haitian Refugee Center and the NAACP spoke with a dozen men and women at Krome on Friday. The attorneys said male strikers told them they broke their fast after being threatened with physical harm in the cafeteria by Krome officers wearing black leather gloves.

"Apparently the men were forced to eat under threats, possibly of being beaten up or isolated," said Afran.

The advocates also complained that Krome officers threatened to transfer the women to jails where they would be unable to receive family visits. Several women independently made the same allegations in phone interviews with The Herald on Thursday evening.

Austin, the INS spokesman, angrily rejected allegations of physical threats as "offensive."

He said INS officials in Miami would look into the women's allegations.

HAITIAN EXODUS

Haitian-born athlete tries to visit Krome

By HENRY GARCIA
and LUCETTE ALVAREZ
Miami Staff Writer

In a gesture of solidarity with 160 hunger strikers, Olden Polynice, the only Haitian-born professional basketball player in America, stopped in at the Krome Detention Center on Tuesday.

"I've never made it past the parade. The seven-foot center was abruptly cut off a quarter mile from the entrance by an immigration van. One guard handcuffed the gates shut."

"Those are my people," yelled Polynice, 28, a player for the Detroit Pistons. "Why can't I see them? What are you hiding?"

Beyond the gates, weary Haitians fought off fainting spells and dizziness as they endured the fifth day of their hunger strike. Some 40 Haitians have passed away since the fast began on Tuesday, said refugee advocate Cheryl Little.

Despite their weakened condition, the 160 hunger strikers showed no sign of abandoning their protest. Even after they were fed into the cafeteria, where meals of other detainees ate pellets of meat and vegetables, the hunger strikers refused any food.

One Haitian woman bolstered the protest after she joined in.



REFUSED: Detroit basketball player Olden Polynice, in town to play the Miami Heat, confronts a Krome official on Tuesday.

refusing her first meal on Tuesday. Of 163 Haitians detained at Krome, only three are eating. The Haitians are protesting the swift release of 48 Cuban defectors from the camp last week.

While Haitians must prove they are political refugees to stay in the United States, Cubans are automatically treated as political refugees. They are rarely detained or deported, and most win permanent residency within two years.

"Something has got to be done

Dancer encourages hunger strikers

Katherine Dunham, 63, the renowned dancer who fasted for Haiti Tuesday sent a message of hope and encouragement to the hunger strikers at Krome Detention Center.

Dunham fasted 47 days last year in protest of the Bush administration's Haitian immigration policy. When she regained strength, she flew to Miami to a heroine's welcome.

On Tuesday, at her home in East St. Louis, Ill., she sent a message to those in Miami who

they should not think about food. In my fast, I did not think about it, even when pictures of food came on television. Food became a thing far away from the being inside me.

"They must simply not lose faith. They must insist on their cause. Whatever they do, they should know that people all over the world are with them. If I can, I will come visit them."

— JOHN DONNELLY

Joy said INS continues to monitor the Haitians. He reported no serious health problems, and denied the refugees are being mistreated. "There is no harassment that we know of, not will we condone any," he said. The Haitian American Lawyers Association jumped into the controversy Tuesday, demanding that the U.S. government treat Haitians fairly.

"Give Haitians a chance to plead their case," said Philippe J. Brutus, president of the association.

But with 352 Haitians arriving on a freighter, it was not a suitable time.

Little, who met with Haitian hunger strikers on Tuesday, said that protesters "are extremely weak. They could barely speak."

Little said that INS guards have taunted detainees, telling them that if they don't eat, they will never be released.

"They are absolutely resolute about continuing the hunger strike," she said.

Polynice, who left Port-au-Prince at the age of 7, said the U.S. government has unwittingly created a crisis, one that could have been easily avoided. To make that point, he wore a black baseball cap to Krome.

It reads: "No excuses. Just results."

"I wore it on purpose," he said. "That's what the government has to do. Haitians are tired of excuses."

Herald staff writer Wilda White contributed to this report.

TUESDAY, JANUARY 5, 1993

159 stick to hunger strike

Meeting with INS fails to end Krome protest

By ANTHONY VIOUCCI
Herald Staff Writer

Nearly 160 Haitians endured the fifth day of a hunger strike at the Krome Detention Center on Monday as federal immigration authorities met with advocates for the detainees in an effort to bring an end to the delicate standoff.

The top two immigration officials for Miami, Carol Chasse and Wayne Joy, said they will review the detainees' cases to see if any might qualify for release, but they made no promises, participants in the meeting

Doctors will monitor strikers' health, INS officials said.

Chasse and Joy also pledged that camp doctors will carefully monitor the strikers' health, and that there will be no retaliation against anyone for refusing to eat, the advocates said.

"The meeting was a step in the right direc-

tion," said Cheryl Little, an attorney for Florida Rural Legal Services who represents several of the hunger strikers.

Still, there seemed few prospects for an immediate resolution to the strike, sparked by immigration authorities' rapid release last week of 48 Cuban defectors who diverted an airliner from Havana to Miami.

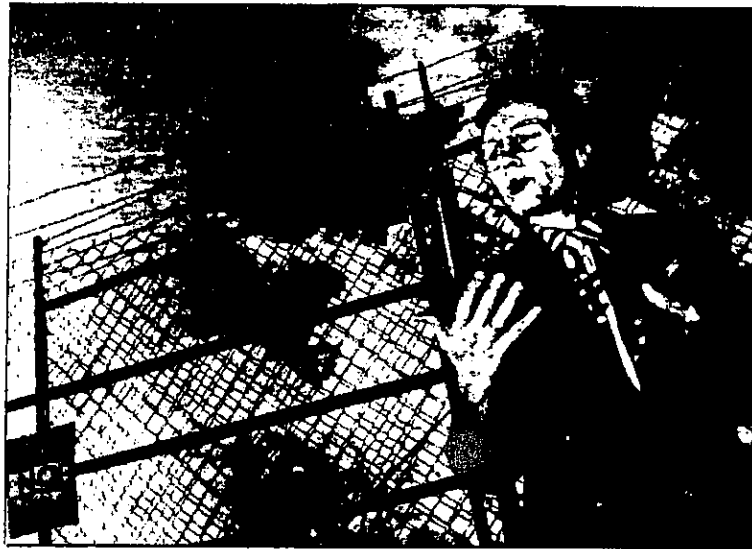
The strikers, many of whom have spent months at Krome awaiting political asylum hearings, are protesting what they call dis-

PLEASE SEE HAITIANS, 7A



PATRICK JAMMILL / Miami Herald Staff

VISITED CAMP: Refugee advocate Rolando Dorancy says the strikers are determined to be released together or die together.



PATRICK FARRELL / Miami Herald Staff

STRIKERS' REPRESENTATIVE: Florida Rural Legal Services attorney Cheryl Little, outside Krome, called the meeting with INS "a step in the right direction."

Refugees stick to Krome hunger strike

HAITIANS, FROM 1A

criminy treatment. The strikers, who were allowed to meet earlier Monday with the executive director of the Haitian Refugee Center, Rolande Dorancy, told her that they intend to stick to their resolution to eat nothing solid until all Haitians at Krome are released.

"They don't want to eat. They are not going to end the strike," Dorancy told reporters outside Krome. "They said all of them will be released together or all of them will die together."

Dorancy said 159 men and women — more than two-thirds the population at the West Dade camp — were participating in the strike.

Details on how the strikers were faring and how Krome administrators were dealing with the strike were sketchy Monday. Advocates for the refugees say they have heard reports of strikers fainting, and Dorancy said three men passed out during Monday's meeting.

U.S. won't discuss strike

Local immigration officials have imposed a virtual news blackout on the strike. During the first few days, they reported how many Krome residents showed up for meals.

But Chasse, the acting district director for the Immigration and Naturalization Service, refused to discuss the strike on Monday.

"I simply have no comment," she said before hanging up.

Duke Austin, spokesman for the INS in Washington, said he knew few details about the strike.

Participants in the hour-long, late-afternoon meeting with Chasse and her deputy said the INS officials explained the blackout by saying they feared that media coverage would lengthen the strike.

But the participants in the meeting said the INS confirmed that 119 men and 40 women failed to show up for meals on Monday, although they added that the number varies daily. All the strikers are Haitian but for one Venezuelan man. Dorancy said it was unclear why the Venezuelan was participating.

Although a number of Dominicans, Jamaicans and other nationals joined the strike at the outset, they have apparently resumed eating, Little said.

At the meeting, the INS administrators said that Krome doctors were closely monitoring strikers' health, said Father Tom Wenski, a pastor in Little Haiti.

Chasse and Joy said the strikers have been given special uniforms to wear to distinguish them from the rest of the camp population, which wears orange, and doctors take their vital signs once a day, Wenski and other participants said.

Water reportedly cut off

The strikers have told their lawyers they are taking only water and other fluids, but some have complained that Krome administrators shut off water coolers in their quarters. Hunger strikers who drink juice and other fluids can last weeks without severe symptoms.

Chasse denied the allegation, the advocates said.

Monday night, the Haitian Refugee Center received a call

from a hunger striker who reported that Krome administrators had delivered water and juice to the women's quarters, Dorancy said.

But the INS officials at the meeting acknowledged they are not permitting the strikers to use the camp's soda and food vending machines, Wenski said.

"INS said that if they want to eat, they should eat nutritious food and not junk food," Wenski said.

After five days, the strikers' plight is attracting wider attention. Olden Polynice, the Haitian-born center for the Detroit Pistons basketball team, will try to visit the hunger strikers today, when his team is in Miami to play the Heat.

In Little Haiti, the hunger strike has prompted a new barrage of criticism of the long-depised immigration policy. Jacques Despinosse, president of the Haitian American Democratic Club, said his group's board of directors will meet this week to discuss how to support the Haitians at Krome.

"Somebody has to back them up. People have been screaming on the radio call-in shows. It's just not fair," Despinosse said.

The INS has adamantly defended its policy of detaining Haitians and other nationals while releasing Cuban refugees, citing the lack of an agreement with the Castro regime to return refugees to the island.

"It isn't that we're doing this whimsically," said Austin, the INS spokesman. "We are administering the law consistently."

Herald staff writer Harold Maass contributed to this report.

11/29/92

Not all refugees treated the same

Haitian policy fuels critics

By ANDRES VIGLUCCI
Herald Staff Writer

Three boatloads of Haitian refugees landed in South Florida this month to starkly different receptions from immigration authorities: Two groups were shackled, put on a bus and sent to detention in Texas, far from relatives, interpreters and lawyers to help them claim political asylum.

But a third group of 71 Haitians, the largest of the three, was paroled *en masse*, released to join their families in Miami and pursue asylum in freedom.

When the 24 refugees in one of the groups in Texas heard about the more liberal treatment accorded the 71, they reacted angrily. They staged a sit-down strike that ended with their forced removal, some minor injuries and three protest leaders in the local jail.

The handling of the three groups has raised anew old questions about how equitable U.S. immigration authorities have been in applying their rules and policies to Haitian asylum seekers.

Critics, including advocates, lawyers and people in the Haitian community, cite the recent landings as further evidence of an argument they have long advanced — that the U.S. Immigration and Naturalization Service applies its detention policy inconsistently at best, and arbitrarily at worst.

The questions have gained impetus amid the debate in Washington over how President-elect Bill Clinton, who has pledged to moderate the Bush administration's approach to the Haitian boat people, should handle their claims for asylum.

"People are very confused," said Steven Forester, an attorney for the Haitian Refugee Center in Miami. "The relatives of the peo-

Not all refugees treated the same

HAITIANS, FROM 1B

ple sent to Texas are distraught. Removing people 1,000 miles away and incarcerating them is cruel. They're not criminals."

INS officials say the critics are wrong. The policy is clear, INS says: Whenever there is room, immigration will detain people who enter the country illegally.

"The law says, 'Excludable aliens shall be detained until their status has been determined,'" said Duke Austin, an INS spokesman in Washington. "There is no 'may' or 'should' about it."

Although some refugee advocates speculate openly that the Bush administration is trying to embarrass the Clinton team, Austin said the reason recent arrivals have been treated disparately is far simpler: lack of space at the Krome Detention Center.

Until last week, half of Krome had been used temporarily to house federal prisoners made homeless by Hurricane Andrew. Krome still remains short of capacity because a dorm that burned down earlier this year has not been rebuilt.

The INS had no choice but to parole the group of 71 because there was no detention space available when they came ashore, Austin said.

The other two groups — including most of a group of 62 that arrived early Monday in Miami crammed aboard a small freighter — were sent to centers in Texas because that's where space was available at the time, Austin said.

But an attorney representing the 24 Haitians who staged the protest at a detention center in Laredo, Texas, says INS has sent his clients to the wrong place.

"It's impossible for all of us. Who made this decision?" said Tom Hutchins, staff attorney for the local Refugee Assistance Council.

Hutchins says no one speaks Creole at the detention center, which is run by a private company under contract with the federal government. Nor does anyone at the local INS office, which also lacks any interpreters. And only one of the Haitians speaks some broken English.

Hutchins says INS and detention center workers have complained to him that they consider the situation nearly unmanageable. When the Haitians staged their strike, no one could com-

municate well enough to reach a peaceful solution. Instead, center administrators had to call in help from the U.S. Border Patrol.

"The tensions of having 25 people you can't communicate with are very high," Hutchins said. "As far as preparing their asylum cases, I can't exaggerate the difficulties we're having."

Hutchins has enlisted help from a *pro bono* legal group in San Antonio to get his clients released, or at least transferred to detention in Miami, where advocates say they would have far easier access to help.

Underlying the dispute between the INS and the Haitians' advocates are questions about the extent of detainees' legal rights. Under U.S. law, detainees have the right to legal representation as they pursue political asylum and, if denied, to appeal deportation.

In the case of Haitians, advocates say, that means they have a right to be close to Miami or other cities where free legal assistance, interpreters and family support are available. Sending them to small towns in Texas or other states makes good legal representation impossible and effectively robs the Haitians of their rights, the advocates contend.

"We've got the free legal help, the Creole interpreters," said Cheryl Little, an attorney for Florida Rural Legal Services in Miami. "These Haitians should be here."

Carol Chasse, the acting Miami INS director, wields considerable discretion over detainees, including the power to parole them or begin deportation proceedings against them.

Chasse said she generally paroles only children, pregnant women and people with good cases for asylum with relatives who have legal U.S. residency, and hold property or can demonstrate strong South Florida ties. In fact, several people from each of the two contingents sent to Texas were released or allowed to stay behind pending possible parole.

But she says the INS has full legal discretion over where to put detainees.

"The service moves detainees every day according to where space is available," Chasse said. "Can the detainees choose where to be detained? That's an interesting question that I suppose may have to be settled in the courts."

PLEASE SEE HAITIANS, 2B

National Report

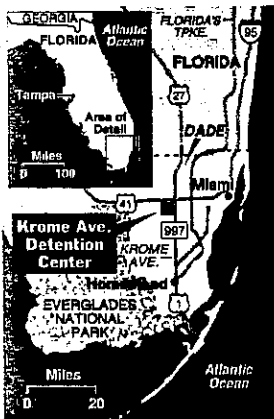
The New York Times

Winds Free 40 Aliens, Stirring Second Storm



Susan Greenwood for The New York Times

"An officer told me and the other men that if we stayed and worked they would let us out in two weeks," said Luder St. Val.



The New York Times

The detention center is a symbol of discord on immigration policy.

By ANTHONY DePALMA
Special to The New York Times

MIAMI, Sept. 20 — Thousands of volunteers from all over the world have come to South Florida to help the victims of Hurricane Andrew. But about 40 illegal aliens who were both victims and volunteers ended up with the sweetest reward of all: their freedom.

The 40 were being detained at the Krome Avenue Detention Center, awaiting asylum hearings or final deportation back to the countries from which they had come, when the storm hit. The center, in a rural part of Dade County, lost power and phone service.

Soon after the storm, most of the 200 men and women at Krome were transferred to county jails so the center could be cleaned up and used to house local residents and Immigration and Naturalization Service employees who had lost their homes.

But officials kept behind about 40 men from India, Pakistan, Nicaragua, Haiti and other countries to help clean up. Then, before any of the rest of the detainees were brought back, the workers were paroled.

Not a Simple Ending

Normally, that would seem to be a happy ending to a complicated story, but when it comes to immigration, almost nothing is as it seems. Lawyers representing the men who were released said that while they were glad their clients were free, at least temporarily, the action showed how arbitrary immigration regulations can be.

Over the last decade, Krome has come to be a symbol of frustration or injustice, depending on how people view immigration. Many Haitian boat people who made it past Guantánamo Bay, Cuba, are held there but Chinese, Indians, Pakistanis and others also spend more than a year behind the fence waiting for asylum or deportation. Officials stress that Krome is a detention center, not a prison, but advocates for ethnic groups say the distinction is meaningless.

Officials from the Immigration and Naturalization Service, which runs Krome, denied that the men had been paroled in compensation for volunteering to work. They said that the detainees had been paid for their work (the normal rate is \$1 a day) and that if some of them had been paroled, it was part of a normal process.

"No one was paroled because they stayed behind to work," said Wayne L.



The New York Times

After Hurricane Andrew damaged the Krome Avenue Detention Center in Miami, most of the 200 illegal aliens held there were transferred to county jails throughout South Florida. Those who stayed behind to help clean up were then freed. Haitian immigrants spoke with other detainees through a fence in 1990.

Joy, acting deputy district director for the Immigration and Naturalization Service in Florida. "We parole people every day from Krome."

Officials Are Challenged

Mr. Joy's explanation contradicts those given by several immigration lawyers, a representative of the Haitian community and some of the men who were released.

"An officer told me and the other men that if we stayed and worked they would let us out in two weeks," said Luder St. Val, a 23-year-old Haitian man who was held at Krome since he arrived in a boat on March 19. He was interviewed at the office of his lawyer,

William J. Sanchez.

Mr. St. Val said he and the other men worked for about eight hours a day cutting fallen tree limbs and cleaning up the grounds of the detention center. Then on Sept. 4 he said he and the other men were driven to Miami International Airport and released.

His papers indicate that he was released on humanitarian grounds, even though a similar appeal had been denied in April. His request for asylum had also been denied.

Parole is a sore point between lawyers and the immigration service, and this incident seems certain to make things worse.

"This shows that they can grant parole when they want to and when it is convenient for them," said Candace L. Jean, an immigration lawyer in Miami who represented three men who were released. She said one client had been detained in Krome 20 months while his plea for asylum made its way through immigration courts. She said he was facing a final order of deportation when he was paroled after working on the storm cleanup crew.

That final order is still pending, she said, but now that the man has been released he has a great deal more freedom to pursue his defense. He can make phone calls, write for documents and consult with friends and family in a way that would have been impossible while he was detained.

"The whole world opens up to you if you're released from Krome," Ms. Jean said.

The Reality Is Freedom

Although no one will say so for the record, it is understood that a foreigner who is released from Krome has gained his freedom because he is effectively beyond the reach of the constantly swamped immigration agency.

Immigration lawyers representing these people constantly press the immigration service to release their clients from the detention center, which is surrounded by a fence and in which detainees wear prison-like uniforms.

But the lawyers say the Federal officials act arbitrarily in making decisions about parole on humanitarian grounds, which unfairly punishes the foreigners.

"The criteria they use for parole at Krome have fluctuated so much in the last two years that no one knows what they are," Mr. Sanchez said. "Over and over again, different people are released for different reasons."

'Each Case Is Individual'

Mr. Joy, the district director for the immigration service, said normal standards were used to make parole decisions for the 40 volunteers, but he could not say what they were because "each case is individual."

Besides the issue of the men's release, the post-hurricane evacuation of Krome has raised other complaints. When they were taken out of the Krome center, the detainees were brought to county jails. This has upset some people who maintain that these foreigners have not committed any crimes.

For the two weeks while the detainees were being held elsewhere, their families and lawyers had difficulty finding out where they were or how to reach them. Although immigration officials say that any relative who called was told where the detainee was sent, Joan Friedland, an immigration lawyer in Miami, said it took her 10 days to find where her clients had been taken.

The 200 detainees who were transferred are now being returned to Krome. Mr. Joy said they would all be back by the end of this week. He has refused to allow reporters into the center until all the detainees are back.

Ms. Friedland said the problems at Krome were just the latest sign that the immigration service was unresponsive and unfair. "They can do this because they never have to explain, never have to answer for what they do," she said. "The next time something like this comes around, and we ask for parole for clients, they'll pretend this never happened."

The Nation Continued

'Processing' for Haitians Is Time in a Rural Prison

By LARRY ROHTER

THROUGHOUT Latin America and the Caribbean, the place with the short, harsh name of Krome has become a symbol of the United States as famous as the Statue of Liberty. For thousands of would-be refugees and immigrants during the last decade, the Immigration and Naturalization Service detention center on Krome Avenue, a two-lane road through rural farmland that separates Miami's suburbs from the Everglades, has been their point of entry into America. The tales that filter back to friends and relatives, however, tell not of opportunity but of persecution.

During a hunger strike earlier this month to protest the death of one such detainee, 185 Haitians interned at Krome charged that they had been beaten, harassed and deprived of medical care, of their Bibles and of contact with their lawyers and relatives. Krome, inaccessible by public transportation, is on the opposite side of the county from Little Haiti, and just getting there can be an ordeal for families, many of whom do not own cars to make the 60-mile round trip. But Richard Smith, the immigration service regional director here, described the charges as "old allegations that we have heard over and over again." Two years ago, in fact, Representative Danie Fassel, a Miami Democrat who heads the House Foreign Affairs Committee, was apprised of the same type of complaints and said the documentation was "disturbing and would indicate that longstanding abuses at the center remain uncorrected." The Federal Bureau of Investigation has also been examining conditions, though the findings have not been made public and the inquiry has been used by officials to limit access to independent human rights groups. "If they have nothing to hide, why don't they open it up and let people talk to the detainees?" asked Nancy Arnison of the Minnesota

Lawyers Rights Committee.

In its earliest days, the Krome Service Processing Center was a jumble of tents and makeshift buildings thrown up on vacant land owned by the United States Department of Defense to process some of the 125,000 Cubans who arrived in the 1980 Mariel boatlift. As the immigration flow of the 80's continued, plans to close the center were abandoned and Krome's population rose to as many as 800 people. Today anyone caught entering the district illegally is likely to be taken to Krome. At the moment, Haitians are the dominant group but nearly every other country in the Western Hemisphere is represented, and there are also Chinese, Indians and Africans. "It's like a miniature United Nations here," said K. Weiss, the administrator, said on a recent tour.

A Jail Is a Jail Is a Jail

Compared to refugee camps in places like Hong Kong or Honduras, Krome is cleaner and more spacious. Nevertheless, there is no mistaking its purpose: there are barbed wire fences everywhere. Internees wear orange uniforms, guards on the grounds are armed, and the intimidating sound of gunfire can echo through the camp from a nearby target range where I.N.S. officers practice. "I was once asked by a public official why Krome looks so much like a jail," Mr. Smith said. "That's because it is a jail, albeit a minimum security



Haitian internees meeting with relatives at the Krome detention center near Miami. Shapiro/Archer for The Source

the complexity and slowness of the immigration bureaucracy cause many internees to spend many more than the 90 days that would be allowed by a bill now before Congress. There are also minors, who by I.N.S. regulations are not supposed to be detained there, and at least one infant born in the United States. "The basic problem is that there are no rules," said Joan Fricland, an immigration lawyer here. "Everything is discretionary."

While they wait, many detainees volunteer for work, which earns them \$1 a day; administrators say Congress has refused to authorize an increase to \$4. Even so, it is usually not difficult to find recruits. "A lot of the cultures represented here are very work-oriented," said Michael Rozas, Ms. Weiss's chief deputy. "They are not used to sitting around 24 hours a day doing nothing, and they don't like it."

Ms. Weiss denies allegations of violence and human rights abuses at Krome. "There is no institutional policy of brutalizing people," she said. "Why would we want to run a place where we beat the hell out of people?" Refugee advocacy groups and immigration lawyers have a two-part answer: to discourage other potential refugees and because it is easy to get away with. Detained immigrants are a powerless group, these advocates say, without recourse to normal political or legal channels. Administrators and guards are aware of the hostility with which they are regarded in Miami, where most residents are members of immigrant families, and argue that it is unfair, since they are merely carrying out Washington's instructions, confusing and contradictory though they may be. "The source of the problem is not here," Mr. Rozas said. "Nobody working here is going to change the policy of the President of the United States. He hasn't called us yet."

jail. The sign outside may say that it's a processing center, but that's just semantics."

"For someone who has never been detained anywhere, having their whole conduct regimented in Krome can be quite a shock," said Randy Saltsberg, an immigration lawyer here, thinking especially of his women clients from "sheltered families in traditional societies."

Though Krome was designed for short term stays,

Haitian Refugees Allege Abuse at Florida Center

By LARRY ROHTER
Special to The New York Times

MIAMI, June 4 — Haitians who are interned at a detention center operated by the Immigration and Naturalization Service here are being "abused, harassed and intimidated" by security guards and officials at the compound, according to refugee-advocacy groups and immigration lawyers.

Affidavits collected from detainees by the Haitian Refugee Center, an advocacy group here, say that at least two Haitians have been "badly beaten" since Saturday by guards after a fire broke out that day at the center, the Krome Detention Facility.

The immigration agency denies that there have been abuses at the center.

The center, whose normal population is about 550, is the main holding camp in Florida for foreigners whose immigration status is unclear. Officials say that the population was reduced by about 100 people after the fire, and the lawyers say the center's population currently includes about 250 Haitians.

Strip Searches Described

The group also asserted in a report compiled from the accounts of detainees that at an inspection at the camp last weekend, male detainees were ordered to strip "and told to jump up and down."

The document also says detainees are being routinely "awakened around 4 A.M. to perform such tasks as scrubbing the toilets and walls with their bare hands" and picking up cigarette butts in the dark. Guards have justified that treatment, the document also says, by telling the Haitians "you are all HIV-positive anyway" and by telling them that they do not deserve to be paid for the labor.

"The detainees have been forbidden to gather together in small groups even to pray together, and their Bibles have been confiscated," said Candace L. Jean, a Miami lawyer who is representing several people in the camp in immigration proceedings. "Some detainees have had the Bibles taken right from their hands and thrown in the trash right before their eyes."

Rolande Dorancy, director of the Haitian Refugee Center, said it was hard to determine the extent of the abuses because the agency had begun making access to the camp difficult for outsiders. As part of the crackdown, she said, Haitian detainees "have been denied access to counsel and family members and use of the telephone" by camp officials.

Impossible to Verify

It was impossible to independently verify the accusations of what lawyers described as violations of immigration law and international human rights agreements. On Wednesday, guards at the center turned away a reporter even though other officials had granted permission to attend deportation hearings at the Federal Immigration Court inside the compound.

Richard Smith, the district director of the immigration agency, denied that

any abuses have occurred, describing the complaints of the refugee center and immigration lawyers as "outlandish allegations that have no basis in fact." Refugee advocates make such charges "every time they want to incite something," he said, and have done so now in order to "create a disturbance at Krome" that will force the Federal Government to release the detainees.

Mr. Smith did acknowledge, however, that Haitian internees had been stripped and searched to see if they had matches and lighters, an action he said was necessary because "I was not about to allow anybody to burn down another building." Bibles and other books were confiscated, he said, because he had ordered guards to "remove any combustible materials" from the detainees.

Relations between agency guards and detainees from many nations have traditionally been tense. The latest episode flared May 28, after a 22-year-old Haitian, Edser Altemira, collapsed and died at Krome. Haitian detainees have told their lawyers that camp officials were slow to summon medical care because they thought Mr. Altemira

Accounts of harassment emerge, and are denied.

was shirking his work and that the officials later told other detainees that the young man had died of AIDS.

Mr. Smith said the man had a heart condition and had recently been operated on at a Government hospital in Virginia. He said that the man had received immediate medical attention after his collapse.

In protest against Mr. Altemira's treatment and the reports of rumors that they are AIDS carriers, Haitian detainees then began a prayer vigil and fast. Lawyers also said the refugees were meeting with a camp supervisor on Saturday outside a dormitory when the fire broke out, causing an estimated \$3 million in damages, and thus could not have set the blaze, which the authorities say may have been caused by arson.

More than 37,000 Haitians have fled their Caribbean island homeland since the country's elected President, Rev. Jean-Bertrand Aristide, was overthrown in a military coup last September. On May 24, President Bush, reversing his earlier policy, ordered Coast Guard vessels to return all Haitians intercepted at sea to Haiti without allowing them to apply for asylum.

Repatriation Under Way

Last week, the Administration announced it would also close a refugee center for Haitians at Guantánamo Bay in Cuba that has been sheltering Haitian refugees and processing their political-asylum applications since the coup. Repatriation of some 12,000 Haitian refugees who had been living in tents on the military base is now under way.

The Haitian Refugee Center and lawyers representing detainees asserted that the measures being imposed at the detention center here were retribution for the fire.

Lawyers and advocacy groups are calling for an investigation into the death of Mr. Altemira and said that they were considering filing a suit against the Federal Immigration agency. They also said an immediate evacuation of Haitian detainees from Krome is in order.

"At the present time, the detention center is not suitable for human habitation," Ms. Jean said. "They should release these people to their relatives here or to the many churches that are willing to sponsor them. At a time that Haitians are most in need of humane treatment, this country is taking the opposite approach, and that is shameful."

Sit-down strike held at Krome

Detainees protest waits, conditions

By DONNA GEHRKE
And KAREN BRANCH
Herald Staff Writers

Nearly half of Krome Detention Center's 391 illegal immigrants went on a sit-down strike Monday, frustrated over residency claims that have gone months without resolution and alleged poor conditions at the camp.

The strike began at 11:30 a.m., when about 150 men and about 30 women refused to eat lunch. They sat all day out in the patio area outside Krome's main buildings, refusing to eat or enter for mandatory roll-calls, said Richard Smith, district director of the Immigration and Naturalization Service.

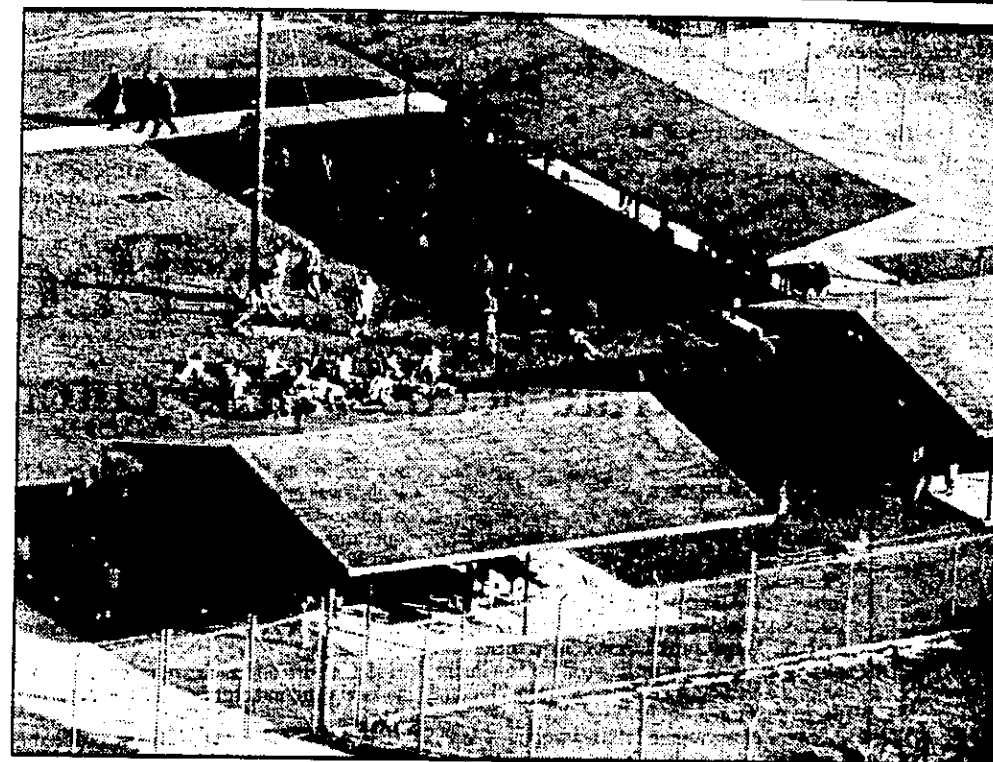
At first, they refused to talk to INS executives, but later presented Smith with a long list of demands.

"It's unfortunate," Smith said late Monday. "Much of the list I can't honor."

Smith and three members of the Justice Department's community service unit met 2½ hours Monday night with a dozen of the strikers. Then Smith spoke to the entire group as the strikers sat on an outdoor basketball court.

"The No. 1 complaint: The entire process is entirely too long and they end up spending an inordinate length of time in detention," Smith said afterward in an informal press conference outside the center's gates.

"It's impossible for me to deal with every individual case in that setting, but I committed that beginning tomorrow morning, we will give them another whack at trying to satisfy the parole



ANDREW INNERARITY / Miami Herald Staff

SIT-IN: Krome detainees refused to eat and held a strike in the yard outside the main buildings.

requirements," he said.

Smith, who said he will go back at 9 a.m. today, also agreed to visit Krome once a week to listen to complaints and check on conditions.

Roshan Singh, a 31-year-old refugee from India who was released from Krome Monday, said the strikers at the West Dade facility, on the edge of the Everglades, included Haitians, Indians, Chinese and Central Americans. Some had been at Krome for more than a year.

"They say, why haven't they been released?" said Singh, who spent six months and seven days at Krome. "There are no Cubans striking because Cubans come in and leave after two or three days."

Singh said the detainees weren't eating or drinking during the strike.

When Smith left just after 9 p.m., they had agreed to eat a dinner of Operation Desert Storm Salisbury steak rations. But they refused to leave the patio.

An extra 15 security officers were called in, Smith said, but the compound was not under lockdown status.

Smith said there was little indication when the strike would end. "Some said, 'We're going to do this until we get what we want. Others said, 'I think I'll go back in tonight.'"

However, Smith said he would not punish any of the detainees for participating in the sit-down strike. "They haven't violated any rules," he said.

He added that the Krome detainees had been demonstrating peacefully and added it was not

comparable to the current siege at the federal prison at Talladega, Ala., where Cuban prisoners are holding 10 hostages.

Two Haitian Refugee Center representatives, executive director Rolande Dorancy and attorney Evenette Mondesir, talked with the inmates for several hours before leaving just after 8 p.m.

"All of them asked to be released or to be sent back to their countries," Dorancy said.

The detainees also were complaining about difficult conditions at Krome, including abusive guards.

"It is true that we are illegal refugees," a group of detainees wrote in a letter dated Aug. 19 to the Haitian Refugee Center. "But we are neither criminals nor thieves."

The Miami Herald

SUNDAY, APRIL 28, 1991

CONTENTS COPYRIGHT © 1991 THE MIAMI HERALD

Krome haunted by claims of abuse

INS chief: Charges
are 'outlandish'

By LIZETTE ALVAREZ
And DEBBIE SONTAG
Herald Staff Writers

One year ago, the Department of Justice began an investigation of harrowing allegations of abuse and indignity at the Krome Detention Center. Detainees once locked inside the immigration camp had made chilling claims: Guards beat them, sexually harassed them, threatened them, humiliated them.

Now, the old charges unresolved, fresh allegations haunt South Florida's detention camp.

New detainees — most of them Haitian and Chinese — report similar abuses: They say they have been kicked, punched, locked arbitrarily in solitary confinement and ridiculed. One woman alleges she was raped by a guard. A group of Chinese refugees launched a hunger strike in October to protest what they felt was abusive treatment.

"The calls about abuse come in on a more or less regular basis," said Cheryl Little, attorney for the Haitian Refugee Center. "No sooner do you think the problem's gone away than, bang, it's surfaced. You get calls saying, 'They've beaten us, they're throwing us in isolation for no reason, there's sexual abuse.' It's been pretty consistent."

The local chief of the Immigration and Naturalization Service, Richard Smith, believes the charges are exaggerated. He believes the Haitian Refugee Center is "coming up" with "flagrant, outlandish allegations" — perhaps to get its clients released from the detention camp.

"These things do not happen in the volume that these allegations are claiming," Smith said. "There isn't a single Haitian or Chinaman left in Krome who made those allegations. They've been paroled. Allegations have nothing to do with parole, but they think it does. If they make enough noise, they think they will get out."

To date, the government's investigators have neither confirmed nor denied the validity of the charges. Inside Krome, nothing is reported changed — not the system or the rules or the accusations.

"Something is happening there. Why in the world are those responsible not taking the steps necessary to protect those people?" said U.S. Rep. Dante Fascell, D-Miami.

Last April, after The Miami Herald's reports of alleged abuses and Fascell's request for a formal inquiry, the FBI started an investi-

PLEASE SEE DETAINEE8, 21A

Krome still haunted by claims of abuse

Local INS chief charges 'outlandish'

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DETAINEES, FROM 1A

gation. Last week, a Department of Justice spokeswoman said the investigation may last as long as five years.

Meanwhile, Smith said he is constrained from acting — punishing guards, for example, or changing the system — until the investigation is formally completed: "Nothing has been done," Smith said. "I haven't changed a thing."

Said Fascell: "They are taking cover behind the investigation."

Paul Miller, spokesman for the Miami office of the FBI, said the agency recently completed its part; the report on alleged abuse of detainees by guards is done. But the Department of Justice Civil Rights Division has up to five years to review it.

Little: "What's so distressing is the abuses are ongoing, and nothing is being done."

Last month, a 30-year-old Haitian woman was released from the camp after she told her attorney that a guard had raped her in January. Her attorney, William Sanchez, demanded her release, telling immigration officials that she was severely depressed and afraid that the guard would try to harm her again.

The Haitian woman said she was raped in the health clinic on Jan. 23. Two days later, she was taken back to the clinic by a friend, where she told doctors what had happened. Doctors never conducted a gynecological exam. After the alleged rape, before she was released, the woman said she saw the guard five times within the compound.

Smith, the INS chief, says the woman must be mistaken; the guard had been switched to performing duties off the compound, away from detainees.

Claim not a conviction

Refugee advocates wonder whether other guards shouldn't be similarly transferred. They say most of the guards accused last year of beating and psychologically abusing detainees remain in the camp.

"I think you have to understand that an allegation is taken seriously, but it is not a conviction," said Duke Austin, INS spokesman in Washington. "You can't leap from one to another — no matter how long it takes."

Refugee advocates are nonetheless concerned that guards' rights are being given more weight than detainees' rights. They worry that the current investigation, which is geared toward the potential criminal prosecution of individual guards and the rooting out of "bad apples," will not address the camp's systemic problems.

"Criminal prosecution is difficult because of the proof that's required, which is different than the proof required to say whether the camp is operated properly," said Joan Friedland, a Miami immigration attorney.

Rights groups watch camp

But Krome is also under other scrutiny. In the past year, the Minnesota Lawyers International Human Rights Committee has visited and issued a report condemning some aspects of the camp's administration. Human Rights Watch and Amnesty International have toured the camp in preparation for an upcoming report. And the federal government's General Accounting Office is studying Krome as part of a project evaluating the country's detention camps.

Detainees at Krome continue to complain of chronic low-level abuse that occasionally turns more severe.

They also still complain about the quality of the water, which they say is yellow and gives them rashes and diarrhea. But chemical analyses of the water, both by the INS and by refugee advocates, show no abnormalities.

The allegations of abuse are chronicled in videotaped statements, in more than 50 new sworn statements and in attorneys' notes from 26 interviews of detainees by the FBI.

The following is from affidavits:

■ Paul Prescott, a detainee from Dominica, said that in late November, after a brief argument with a guard, the guard's supervisor grabbed him by the shirt, and the guard slammed Prescott's hand against a mailbox. "This is not your f—ing country," the guard told him. Prescott said he was roughed up and thrown into isolation. A day earlier, a nurse had written a letter praising his conduct while at Krome.

■ Jocelyne Avril, a detainee from Haiti, said that in October a detention officer ran after her and punched her in the back as she ran inside the sleeping quarters to get a Kotex. He called her a "Haitian dog" and "Haitian big p—y," she said. Another officer makes Haitians feel like animals, she said; she forces them to keep a distance from her and "makes a gesture to indicate that we smell bad," Avril said.

■ Rajuste Dabady, a Haitian detainee, said that in August a detention officer pushed and struck him. After he was placed in isolation, the officer tried to strangle him. Dabady was deported shortly afterward.

■ Yves Brice, a Haitian detainee, said that in late spring of 1990,

'We just left an autocratic country seeking equality and freedom. So far we have not received the warmth of freedom.'

CHINESE DETAINEES,
in a statement

while in isolation, two officers shoved him, kicked him and punched him in the ribs. Brice was "bleeding profusely, and his ribs were throbbing," according to his affidavit. Then an officer stepped on his head as others took his wallet and Bible, handcuffed and shackled him and put him on a bus to the airport for deportation. After a brief period at the airport, where he was chained to a chair, he was taken back to Krome because a federal judge stayed his deportation.

■ Alfredo Jasso-Martinez, a Mexican detainee, said that last May he was physically assaulted by two guards in an isolation room. "One of them twisted my arm. The other kicked me in the ribs. . . . They told me if I complained . . . they would put me in isolation again." Jasso-Martinez was subsequently confined in the health clinic "for his own protection," his attorney said. He was released from Krome after his attorney reported the incident.

"They are humiliated every day," said Esther Cruz, a Haitian Refugee Center attorney. "It makes their lives impossible, living under those circumstances."

In October, 45 Chinese detainees, saying they were fed up with abuse and discrimination, went on a hunger strike. They said guards had been encouraging Haitian detainees to beat them up. The detainees also said guards made them take off their pants during roll call and locked them out of the lunch room.

'Treat us like nonhumans'

"They want to treat us like nonhumans to see what we will do," the Chinese detainees said in their statement. "We just left an autocratic country seeking equality and freedom. So far we have not received the warmth of freedom; instead we have become the target of racial discrimination."

At least two detainees said they have attempted suicide in the past year.

ON SITUATION AT DETENTION CENTER:



'Something is happening there. Why in the world are those responsible not taking the steps necessary to protect those people?'

REP. DANTE FASCELL,
Florida congressman

'Allegations have nothing to do with parole, but they think it does. If they make enough noise, they think they will get out.'

RICHARD SMITH,
local INS head



'The calls about abuse come in on a more or less regular basis. No sooner do you think the problem's gone away than, bang, it's surfaced.'

CHERYL LITTLE,
refugees' attorney

"I took my bedsheet and tied it to my bed, then I took another section and made a knot around my neck," said Ogeste Pierre Jeune, a Haitian detainee who tried to kill himself in October. "The Cuban who has the bed below me woke up and found me hanging. . . . Some of the other detainees took me down and removed the sheet from my neck. I had liquid coming out of my mouth and nose. My eyes were red with blood. . . . When I went back to the dormitory, two guards who speak Creole told me I should have succeeded in killing myself."

FBI Special Agent Robert Fritz told the Haitian Refugee Center's attorneys that he would investigate only blatant acts of physical or sexual abuse that could lead to criminal prosecution; the detention system's flaws were not his domain. Fritz was not allowed to discuss the case with *The Herald*.

On May 30, Fritz began interviewing detainees. The Haitian Refugee Center's attorneys, Little and Cruz, sat in on most of the interviews. The FBI would not comment on any part of the investigation: "I'm handcuffed, not allowed to make a comment," said the FBI's Miller.

Investigator criticized

Little and Cruz did not believe Fritz was taking the inquiry seriously. They felt he failed to follow up on questions and made insensitive remarks about detainees. For example, after a woman alleged she had been sexually abused by a guard, Little says Fritz told her:

All that really happened is that one "guard put his paws on her. . . . I'm sure worse than that happens in the state attorney's office every day." He referred to the alleged victims of sexual abuse as "the sex ladies," the attorneys said.

Attorney Friedland said the FBI never interviewed her client, Jasso-Martinez, the Mexican released from Krome after allegedly being beaten by guards. "Since they haven't bothered to interview my client, it's difficult for me to believe it's an adequate investigation," Friedland said.

Little and Cruz never formally complained about Fritz's handling of the case. Fritz did draw a complaint, however, on another investigation, last summer's arrests of Haitian protesters at Biscayne Plaza's Rapid Transit Factory.

Debra Rose, president of the Black Lawyers' Association, which

represented Haitians in the Biscayne Plaza affair, wrote Attorney General Richard Thornburgh that the Haitian community distrusted Fritz.

The FBI took Fritz off both the Krome and the Biscayne Plaza cases. They assigned agent David Hedgecock to replace him.

Probe ongoing

Although local INS head Smith said an FBI agent originally told him the investigation would be completed by last summer, he has yet to hear "a thing from anybody" about it.

Last year, Smith said his detention officers were overworked, underpaid and, in some cases, insufficiently trained. There also weren't enough of them: Last April, 70 guards were at the camp, 25 of whom worked as temporary employees and received only limited training.

This month, the camp has 83 guards patrolling detainees; 37 of them are temporary workers. Smith recently got approval to hire 16 more guards, but the camp is still understaffed and underfunded, he said.

There are now 525 detainees at Krome — 75 more than the limit — from 37 different countries. Most are Haitian, Chinese and Cuban.

"The investigation ought not to take five years," said Fascell. "We ask them to use their head and do something."

Appendix C: Detainee Grievances

1. Letter from Krome detainees, "Grievance Letter to the: Krome Detention Center," (January 29, 1996) [9pp].
2. Letter from Chinese detainees, "No Discrimination, No Insult, for Freedom -- An Open Letter to American People," (June 19, 1991) [8pp].

Jim Savage
F.I. Young
GRIEVANCE LETTER TO THE: KROME DETENTION CENTER,
IMMIGRATION & NATURALIZATION SVCF
MIAMI, FLORIDA, U.S.A.

MONDAY January 29, 1996

Attention: CHIEF DIRECTOR, KROME DETENTION CENTERATROCIOUS CONDITIONS UNDER WHICH INMATES ARE LIVING:1) INHUMANE & UNJUST TREATMENT - TOILET CONDITIONS

Condition of bathrooms is atrocious. Plumbing pipes leak continuously leaving the floor with large pools of water around the toilets. When volunteer inmates clean the bathroom after washing the walls and floor with a hose, because the floor is not level, there are numerous large pools of water remaining. A number of requests have been made to various officers on duty suggesting that they supply us with a "SQUEEGEE" to push off the water into the drains, but they have totally ignored the requests.

2) YARD LIVING

After being locked outside - in the yard like "PIGS IN A STY", grown men, whether innocent or guilty of crimes, have to heat on the door and beg to use the Bathroom, only to be DENIED ACCESS for up to approximately one and half hours (1 1/2 hrs.).

3) CONSPICUOUS BACTERIAL CONTAMINATION IGNORED

(a) Upon being locked out of the building, some three hundred plus (300+) men are forced to stand for up to three hours (3 hours) at a time, or sit on the DIRT GROUND which we all know is infested with all types of bacteria, because of the men who SPIT AND BLOW THEIR NOSES wherever they are! ALL chairs have been removed from the yard, and there are only five (5) picnic tables to be shared by up to three hundred (300) men, therefore leaving a large number to stand or sit on the DIRT GROUND (bacteria infested).

(b) PERSONAL HYGIENE

Our clothes are changed only ONCE weekly, so WE are sure you can imagine how dirty they can become (especially for those doing dirty chores). If and when some of the men wash their own clothes while taking a shower, officers have threatened to take their clothes that were hung on the fence or barbed wire and throw them in the garbage. Where or how else are we to dry our clothes???

4) BACK TO SCHOOL - TOILET CONTAMINATION

(a) After each meal or before headcounts, we are sometimes forced to stand in line like little children and wait to use a toilet: bearing in mind, that while standing in pools of muck and urine, that there are only eleven (11) toilets available to over three hundred (300) men. Some of the toilets do NOT always work properly (auto sensor flush): sometimes being filled with human waste (feces) for days on end... this naturally leaves the toilets with a nasty stink smell and airborne contaminated bacteria that we are forced to endure... to breathe in.

Page 1 of 3

GRIEVANCE LETTER TO THE: KROME DETENTION CENTER/CHIEF DIRECTOR

Monday, January 29/96

- Page 2 -

4) BACK TO SCHOOL - TOILET CONTAMINATION (continued):

- (b) There are NO URINALS (for men) as the building that houses us was built to accommodate approximately one hundred and thirty (130) women, and now holds over three hundred (300) men. Some of which, have to sleep in hallways, walkways and entrance ways, on cots (not beds), therefore creating a hazard if there was ever to be an emergency, fire or other, it would cause a real DISASTER, and one incident which comes to mind was on the soccer field: DUE TO LACK OF RESPONSE ON THE PART OF THE OFFICERS OVERSEEING THE INMATES, ONE (1) INMATE DIED ON THE FIELD. It was approximately thirty-five (35) minutes before medical help arrived. The doctor attending walked over to the man very nonchalantly, as if attending a dinner rather than an emergency.

*Jan:1/96)

5) UNFAIR DETENTION AND DEPORTATION LAWS AT THE KROME CENTER

Unfair and unjust amount of time is spent making deportation decisions regarding U.S. residents. Also unfair and unjust time is wasted on holding visitors with minimal charges, like expired passports and the like, who have the means to transport themselves out of Florida and to their homeland, and the problems caused to their families who could be of assistance to them in getting them to their homes, yet they are being held in the facility for extremely long periods of time: feeding them medical attention, etc., thereby causing great hardships for their families. They have been separated by I.N.S. also causing great FINANCIAL STRESS ON THESE FAMILIES!

6) LACK OF COMMUNICATION WITH LOVED ONES/LAWYERS, ETC.

Inmates have absolutely "NO" means of communication within the I.N.S. System, much needed. Information and requests regarding individual cases are rarely answered in any form at all. Some of the guards make themselves as gods. You are not even allowed to speak to some of them. This is NOT a PRISON/PENITENTIARY, then why are we treated as inmates of such facilities???

Officers take their time to get to what the inmates consider to be an emergency. Their response to our call for help is ridiculously slow, thus the wrongful death of the inmate on the soccer field.

7) TELEPHONE USAGE:

- (a) Inmates must use pay phones to receive information about their cases, whereas, the deportation officers are located on the same grounds/compound. If an answering machine is on - oh well! Another 25 cents for BellSouth!
- (b) People without money or families in the good U.S.A. do NOT stand a chance of outside communication or receiving information about their case, because there are NO FREE connections to ANYWHERE in or out of the compound, not even the Operator "O" or "411" to receive much needed phone numbers for legal or whatever reason, especially people who have no family in the U.S.A. to help them, and EMBASSIES will NOT accept COLLECT CALLS!!!

Page 2 of 3

GRIEVANCE LETTER TO THE: KROME DETENTION CENTER/CHIEF DIRECTOR

Monday, January 29/96

- Page 3 -

8) COST OF HOLDING INMATES UNJUSTLY HELD

It is costing the hard working taxpayers an average of approximately One Hundred and Twenty-Five Dollars (\$125.00) per day, per inmate to keep them under these INHUMANE CONDITIONS for extremely long and unfair lengths of time. Many of them for as long as nine to eleven (9 - 11) months before they are being sent back to their citizenship country. Some of the inmates are "MINORS" WHY? WHY? WHY?

Herewith is a list of the inmates who have signed this letter/petition. We thank you for your time and look forward to great results in our favor.

per signatures

HUMAN RIGHTS VIOLATIONS CONCERN

18251 SW 12 ST.
AT KRAMER MIAMI

- 1) INSUFFICIENT TOILETS. (2) EXTREME OVERCROWDING.
- 3) No prompt reply to request Psychological Torture.

Jan-24-9

W. M. Cunningham

JOHN J. O'NEAL

ELIZABETH RUSSELL

RICHARD BEAUCAMP

ADRIAN Z. HALL

1. ADRIAN

2. ADRIAN

3. ADRIAN

4. ADRIAN

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MARCUS FOR

Michael Smith

Michael Smith

Michael Smith

Michael Smith

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Michael Smith

Michael Smith

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Michael Smith

Michael Smith

Michael Smith

Michael Smith

Michael Smith

Michael Smith

Michael Smith

Michael Smith

Michael Smith

R. Thukirudin

J. Chirchell

J. Chirchell

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Human Rights Violations Concern

AT KROME DETENTION CENTRE, 18201 S.W. 12 ST. Miami

(1) INSUFFICIENT TOILETS

(2) EXTREME OVERCROWDING

(3) NO PROMPT REPLY TO REQUEST

(4) PSYCHOLOGICAL TORTURE

Jan-24-96

Wesley Taylor
"Don H. Smith"
M. [redacted]

Spring 96
[redacted]

Robert McLaughlin
Chapman C. [redacted]

Spring 96
[redacted]

Arice A. Lewis

[redacted]

[redacted]

[redacted]

[redacted]

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HUMAN RIGHTS VIOLATIONS CONCERT Jan 31 - 90

KRONE DETENTION CENTRE 18201 SW 12 St Miami FLA

1) INSUFFICIENT TOILETS, (2) EXTREME OVERCROWDING

3) No Prompt Reply To Requests 4) Psychological Torture

S. H. H.

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HUMAN RIGHTS VIOLATIONS CONCERN JAN 24-91
AT KEENE DETENTION CENTRE 18201 SW 12 ST. Miami FL
INSUFFICIENT TOILETS, EXTREME OVERCROWDING.

3). No Prompt Reply To Request (4) Psychological TORTURE

Concurrence

AL-ASSADI LOAI
JOHN GARREY
Hunt

Boston
Amelle
Special Agent

ALVIN V FORBES
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]

John Albert Pizarro (impounded)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
Buck

Jim M...
JAGIRMAH...
[Redacted]
[Redacted]

[Redacted]
[Redacted]
Radio Martine
John...
[Redacted]

[Redacted]
[Redacted]
Abraham Joseph
[Redacted]
Bakir al...
(157)

HUMAN RIGHTS VIOLATIONS CONCERN

Jan 24 - 96

AT KROME DETENTION CENTRE

18201

SW. 12 St. Miami FL.

(1) INSUFFICIENT TOILETS (2) EXTREME OVERCROWDING:
 (3) NO prompt reply TO REQUEST. (4) Psychological TORTURE
 OVER 300 MEN SHARE (12) TOILETS

TABLE CITATION

Louis J. J. J.

Imelie Damer

for all

THANK YOU

FROM RUIZ

Dr. J. J. J. J.

Harry

CHURCH

Michael Lourenzo Ivanov

Jose P. J. J.

Ally J. J. J.

JOHN HARRIS

for

for

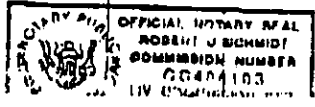
for

Certificate of Signage

STATE OF FLORIDA.

County of Dade.

THE FOREGOING
 INSTRUMENT WAS ACKNOWLEDGED
 BEFORE ME THIS 24th day
 OF JANUARY A.D. 1996 BY Wesley Mackey,
 WHO PRODUCED A74-171-276
 AS IDENTIFICATION. AND WHO DID
 TAKE AN OATH. *Wesley Mackey*



Wesley Mackey

NO DISCRIMINATION, NO INSULT, FOR FREEDOM

----- AN OPEN LETTER TO AMERICAN PEOPLE

We are the seventy PRC nationals being held at INS Krome Detention Center at Miami. Due to the facts that we could not endure the authoritarian government of the Communist Party of China, we left our motherland and loved ones. After experiencing all kinds of difficulties and sufferings, we came to the United States of America to seek freedom and asylum.

In our mind, America is the leader of the world democracy. We were so emotional as we landed on this land. We were so rejoiced for ourselves for being able to cast off the yoke of the ~~crucial~~ ^{crucial} communist dictatorship and begin to have a new life, to freely study, work and live.

However, after personally experiencing incidents, one after another, of unfair treatments and discrimination, we first did not want to believe, then we were shocked, and finally we were furious!! Is this really the United States of America? Is this how INS treats those who came to America for help and protection? Being driven beyond the limits of forbearance, we have no other way but write to you for help. We deeply believe that America will not and should not do something like this! We deeply believe that the great American people will not allow things like this to happen on their land.

In the following, we would like to list some incidents that happened at Krome Detention Center. We respectfully request you to conduct an investigation. If anything is at variance with the

facts, we will bear all the legal responsibilities.

1. RACIAL DISCRIMINATION

(1) This incident happened on May 1, 1991 when we were waiting in the line for lunch. That day, on the counter of the cafeteria, there was a plate of unclean dish; and none of the Haitian detainees before us picked up that dish. The officer on duty did not say nor do anything about it. When it was the turn for a Chinese detainee to pick up his dish, this officer told him to take that dish, which was unwanted by anybody else. As soon as this Chinese detainee slightly showed that he did not want it either, he was very rudely dragged out of the line by the officer and was not allowed to have lunch. After this incident, all the Chinese detainees had a sit-down protest. Seeing this scene, another officer threatened us by saying: "I hate you Chinamen the most, tomorrow all of you will be sent back to China.", then he pointed at one detainee's forehead and made a gesture of shooting with his hands and said: "Bang" "Bang".

(2) Another incident happened in one day in the early June when we were in the line waiting for change of clothes. Because of that several Haitian detainees cut into the line, they got into an argument with the Chinese detainees; to revenge, the Haitian detainees went upstairs later on; there they beat up and injured a Chinese detainee who was alone by himself. But the decision of the officer on duty to settle the fight was that either no body — would be punished or both sides would be detained in isolation for three days. Where is justice? By learning about this unfair

treatment, some Chinese detainees got very angry; as a result, the Chinese detainees and the Haitian detainees got into another confrontation. Reasonably speaking, both sides should bear responsibilities for what happened, but the officers only punished the Chinese detainees. Two Chinese detainees were detained in isolation for more than 72 hours; two others were sent to the county jail, and we have not heard anything about them up to this day. Two days after this incident, Haitian detainees and Cuban detainees got into a physical confrontation, weapons were used, and some of them were severely beaten; but the officers only stopped the fighting and no punishment, what so ever, was imposed. We want to ask: "Is it true that Krome Detention Center divides detainees by race, and different race deserves different treatment?"

(3) Usually if we have an attorney visitation, the visitation finishes at 4:00 PM. By this time, if we can go back to the dorm we will still have time for dinner; but on seven or eight occasions, no matter how badly the Chinese detainees requested, the officers would not let them leave the visitation area and made them stay there, without any justified reasons, till 8:00 PM. By the time they went back, there were either only some left-overs or nothing at all for them to eat; all depends on the mood of the officers on duty. On the other hand, detainees of other nationalities would be allowed to go back to eat as soon as their attorney visitations were over. We want to know why the Chinese detainees always received a "NO" from the officers.

(4) On May 29, 1991, two new Chinese detainees arrived at

Krome. After they received routine physical exam and shots, PHS doctor and the officer on duty signed a pass, and asked the INS Chinese interpreter Miss Lee to take them to the cafeteria to have lunch. As soon as they arrived at the cafeteria, an officer there started yelling at Miss Lee in front of one hundred some detainees and refused to let the two Chinese newcomers eat. This officer's rudeness and no manner attitude were intolerable. Newcomers of other nationalities could have meals immediately when they first arrived; and nobody had ever interfered. Why did this incident happen to the Chinese newcomers? Is it because we are racially lower than the others and have even no right to eat?

2. VIOLATION OF HUMAN RIGHTS

(1) In the afternoon of May 1, 1991, because of the incident of racial discrimination against Chinese in the cafeteria, Chinese detainees organized a sit-down protest. We quietly sat down in order, and waited for our attorneys to negotiate with Krome Detention Center authorities. To this quiet, peaceful protest, the Detention Center dispatched dozens of officers and dragged some Chinese detainees out. We then stood up and tried to protect our country fellowmen. At this point, the officers attacked us brutally; three of us were beaten down to the ground and seven or eight of us were injured. After this incident, flying in the face of the facts, Krome authorities accused the Chinese detainees of attacking the officers first, and later on, they used the same story to cheat the press.

(2) After this May 1st incident, the Krome authorities promised to investigate and discipline those brutal officers, but nothing has been done yet. Instead, some officers became even aggravated because they knew that nothing would ever happen to them. One day, a Chinese detainee was called by his attorney, Mr. Xiaowu Zhang, for visitation, and he asked the officer on duty to let him go into the dorm to get his declaration, so he could give it to his attorney. The officer did not let him in, so he began to explain to the officer that this was for attorney visitation. Before the detainee could even finish his explanation, the officer began to yell and curse. Seeing this, the detainee could do nothing but turned around and left. But God knows why that officer rushed out of this booth and caught the detainee from the back, and pushed him down to the ground. This officer bent his hands back and pushed his head against ground. He was injured on several parts and his eye glasses were broken. This officer's brutality and violation of human rights even made other officers and detainees of other nationalities angry. But so far, nothing has been done to have this brutal officer investigated or disciplined.

(3) Sometimes, our phone conversations with our attorneys were cut off by the officers. No matter how we explained in English to the officers that we were talking with our attorneys, the officers would still take the phone away, and hang it up. Things like this have happened more than ten times.

3 INSULT HUMAN DIGNITY

(1) On day, in the bathroom, an officer looked at one Chinese detainee's penis, and held up his little finger. Then toward other detainees in the bathroom he laughed at the small size of this Chinese detainee's penis.

(2) In the evening of June 16, 1991 (Saturday), a Chinese detainee, following the rules of the detention center, requested to make a phone call to China. The officer on duty said to him: "If you can finish this bottle of chili sauce, I will let you make the call."

(3) One officer groundlessly accused the Chinese detainees of having homosexual relations with the Haitian detainees.

(4) Several times, at the time to go to bed, the officers locked the Chinese detainees in the bathroom. The officers would let the detainees shout for help inside the bathroom, and enjoy watching this by laughing loudly.

4 BREAKING PROMISES

Because of his use of the insulting term "Chinaman", Mr. Richard Smith, District Director of INS, apologized to the local Chinese community. On May 9, 1991, Mr. Smith told the local Chinese community leaders that if the Chinese detainees had U.S. citizen or alien resident relatives or friends, and they were willing to sponsor them, the Chinese detainees could be paroled out immediately. When the Chinese community leaders came to Krome to deliver this news, we were so excited and called our relatives and friends through out the country, and asked them to make the

necessary sponsorship arrangements with INS. However, so far, INS only symbolically released two male detainees and one female detainee. Forty some days have passed after Mr. Smith's promise, Krome still detains seventy some Chinese. Through our interpreter, we asked the Krome authorities how soon we could be paroled out. His answer was "from 6 months to one year". We feel angry at the local INS officials for breaking their promise and contradicting themselves. They were doing this to cheat the press and fool the Chinese community. Being government officials, how could they show no consideration for the confidence and trust we have on them?!

We came to America for asylum at the risk of being jailed, executed; and our families in China may and may have already been persecuted because of us. What is the reason for us to be held for so long? (Some of us have been held for more than three months). Is this what the spirit of American humanitarianism and human rights all about? Chinese asylum seekers in Los Angeles and New York are usually released after a short period of detention. Why is Miami different?

Our relatives and families are worried and we are depressed and don't know what to do. Some of our country fellowmen have already become mentally ill. Although they have received some treatment, their conditions have not been improved. Being not accustomed to the diet here, many detainees have developed stomach problems and lost weight. Our health condition is worsening. We cannot get used to this kind of atmosphere and life.

We sincerely request you to stretch out your warm hands and

help us to gain freedom and make our wishes come true. We deeply believe that the United States of America, the country of liberty, democracy and justice, will let us, the Chinese freedom seekers, gain freedom, and give us chance to study, work and live.

Thank you very much.

Appendix D: Forms and Policies

1. Memorandum from B.G. Kring, Chief Patrol Agent, to Florida Immigrant Advocacy Center (including complaint form) (March 14, 1996) [3pp].
2. Krome SPC, "Detainee Request Form" [1p].
3. Memorandum from Gene McNary, INS Commissioner, to INS Regional Commissioners, District Directors, Chief Patrol Agents, Officers in Charge, Regional Counsels, District Counsels, Sector Counsels, subject "Pilot Parole Projects for Aliens Seeking Asylum in Exclusion Proceedings" (April 26, 1990) [4pp].



U.S. Department of Justice
Immigration and Naturalization Service
United States Border Patrol
Miami Sector Headquarters
7201 Pembroke Road
Pembroke Pines, Florida 33023

Office of the
Chief Patrol Agent

March 14, 1996

Florida Immigrant Advocacy Center
3000 Biscayne Boulevard, Suite 400
Miami, Florida 33137

The Immigration and Naturalization Service (INS) and the United States Border Patrol are committed to employee professionalism and service to the public. I am also committed to openness and to insuring that those persons with whom we come into contact are aware of procedures available to register a complaint of misconduct against an employee of INS or the United States Border Patrol.

There are three avenues available to any person that may wish to register a complaint of misconduct against an employee of the Service. The Department of Justice (DOJ), Office of the Inspector General is one such avenue. The Office of Internal Audit within INS is another avenue. As the Chief Patrol Agent of the Miami Border Patrol Sector, I too am available to receive such complaints. I want to assure you that every complaint received will be reviewed at INS Headquarters, Department Of Justice, or both, regardless of the avenue chosen.

A simple, pre-addressed postage paid complaint form was created by the Service to provide an easy method to register such a complaint. This form may be re-copied as your needs require. I ask that you provide the form to any person that contacts you with a complaint of misconduct against an INS employee.

I sincerely appreciate your assistance with this matter. If I or a member of my staff may assist you in any way, please contact me at (954) 963-9807 (Bro), or, (305) 536-5811 (Dade), extension 104. Thank you very much.


B.G. KRINGS
Chief Patrol Agent

[illegible]

THIS SPACE FOR ADMINISTRATIVE USE ONLY (ESTE ESPACIO ES SOLO PARA USO ADMINISTRATIVO)

Date and Time Received: _____ By: Name: _____
Organization: _____

Instrucciones Para Llenar el Formulario Sus Denuncias Son Importantes

Llene este formulario en la medida de lo posible y sea lo más específico que pueda en la descripción del incidente que denuncie. Si Usted no sabe el nombre del funcionario al que denuncia ni el de la entidad donde está empleado, describa los rasgos físicos de esa persona (estatura, peso, color de cabello, vellos en la cara) y la ropa que llevaba (por ejemplo, uniforme negro con una insignia en el brazo). Es importante que Usted llene este formulario con letra tan clara y legible como sea posible.

Usted no se perjudicará por haber presentado esta denuncia válida. Si recibe beneficios en forma lícita del Servicio de Inmigración y Naturalización como, por ejemplo, un permiso de trabajo, no los perderá por llenar este formulario.

Una vez llenado este formulario, doblelo a lo largo de las líneas de puntos, ciérrelo y échelo en cualquier buzón de correos de los Estados Unidos.

**U.S. DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE**

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

BUSINESS REPLY MAIL

FIRST CLASS PERMIT NO. 13147 WASHINGTON, D.C.

POSTAGE WILL BE PAID BY THE IMMIGRATION AND NATURALIZATION SERVICE

**OFFICE OF INTERNAL AUDIT
IMMIGRATION AND NATURALIZATION SERVICE
425 I STREET, N.W.
WASHINGTON, D.C. 20536-0001**

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

Instructions For Filling Out This Form With Your Complaints

Fill out this form describing the incident about which you wish to complain as specifically and completely as possible. If you do not know the names of the officials about whom you are complaining nor the organization they work for, describe the physical characteristics of the person (height, weight, color of hair, any facial hair) and the clothing they were wearing (for example, black uniform with a patch on the arm). It is important that you give as much information as possible, clearly and completely.

There will be no retaliation for submitting a complaint. Submitting this form will have no effect on your case or eligibility for any benefits to which you are entitled under the Immigration and Nationality Act.

After filing out this form, fold along the dotted lines, seal and mail in the postal system of the United States.

KROME SPC
DETAINEE REQUEST FORM

Detainee Name: _____	Alien Number: _____
Date Arrived KNSPC: _____	Date of Request: _____
Nationality: _____	Housing Area: _____

To: _____

Request: _____

Detainee Signature

Department Response

Employee Signature

Approval By _____	Signature _____	Title _____	Status _____	Date _____
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CO 212.28-P
CO 208-P

Pilot parole project for aliens
seeking asylum in exclusion proceedings

All Regional Commissioners
All District Directors
All Chief Patrol Agents
All Officers in Charge
All Regional Counsels
All District Counsels
All Sector Counsels

Office of the Commissioner

For the 18 month period beginning May 1, 1990, the Service will be conducting a pilot project to determine the feasibility of broadening the availability of parole for certain excludable aliens seeking asylum in the United States. The Los Angeles, Miami, New York, and San Francisco districts have been chosen as participating districts for this project. This memorandum details the criteria under which an alien may be included in this pilot project.

PURPOSE OF THE PILOT PROJECT

The law clearly directs the Service to detain applicants for admission who appear to be subject to exclusion. INA § 235(b), 8 U.S.C. § 1225(b). The fact that an excludable alien has presented a claim to asylum does not mandate the parole of the alien pending the adjudication of this claim. See Singh v. Nelson, 625 F.Supp. 545 (S.D.N.Y. 1985). International law also supports the conclusion that the Service may lawfully detain excludable asylum seekers pending a determination of their asylum claims. Id.; see also United Nations Protocol Relating to the Status of Refugees, January 31, 1967, art. 1(1), 19 U.S.T. 6223, 6225, T.I.A.S. No. 6577, incorporating United Nations Convention Relating to the Status of Refugees, July 28, 1951, art. 31(2), 19 U.S.T. at 6279 (Contracting State may impose necessary restrictions on asylum seekers who arrive in the Contracting State's territory unlawfully, pending resolution of the alien's status).

The purpose of the pilot project is to determine whether an expanded use of the parole authority on behalf of excludable asylum seekers is feasible and desirable. It is clear, however, that the Service has the authority to detain excludable asylum seekers. Id. Detaining asylum seekers can serve as a deterrent

Page 2

Pilot Parole Project for Asylum Seeker.

against spurious claims. See D. Martin, Report to the Administrative Conference of the United States: Reforming Asylum Adjudication at 33-34 (May 1989).

THE SCOPE OF THE PROJECT

The Service will create a pool of 200 excludable asylum seekers paroled under the criteria described below. If a district director in one of the four participating districts determines that an alien meets these criteria, the district director may parole the alien. Before doing so, the district director will consult the Headquarters Office of Refugees, Asylum and Parole (CORAP) so that the alien may be included in the pilot project. The district director will parole the alien after CORAP has assigned a pilot project case number to the alien's case.

The pool of aliens will be created in national sequential order, until the pool is filled. Once 200 aliens nationwide have been included in the pilot project, no additional cases will be included.

Participating districts shall provide monthly reports to Headquarters Office of Detention and Deportation (CODDP). I am sending under separate cover detailed instructions concerning the information to be included in these reports. These reports shall indicate the extent to which paroled aliens are complying with the conditions of their parole. CODDP will monitor these reports and recapitulate them into quarterly reports to the Commissioner and to CORAP. The purpose of these reports is to monitor the reporting by paroled aliens to the Service, as required, and their appearance for hearings and for deportation, if ultimately excluded. Should the monthly or quarterly reports reveal a compliance rate of less than 80 %, the Service may, at any time, suspend the project.

If, after reviewing an alien's case, the district director determines that exclusion proceedings should be terminated so that the district director may grant asylum, the district director should report this fact to CORAP.

RELEASE CRITERIA

During this pilot project, a district director in a participating district shall consider paroling an excludable asylum seeker if the alien satisfies the following criteria:

--the alien seeks parole into the United States on or after May 1, 1990;

Page 3

Pilot Parole Project for Asylum Seekers

--the true identity of the alien has been determined with a reasonable degree of certainty;

--the district director determines that the allegations in the alien's asylum application, if proven true, would provide a reasonable basis for finding that the alien is eligible for refugee status, as defined in 8 U.S.C. § 1101(a)(42)(A);

--the alien is not subject to the bars to asylum set forth in 8 C.F.R. § 208.8(f)(iii) through (vi) and does not otherwise present a threat to public safety;

--an attorney or other person authorized by 8 C.F.R. § 292.1 to represent others has agreed to represent the alien before the Service & EOIR;

*Letter
to
represent
of
support*
--a place to live has been arranged on the alien's behalf, with a specific address to which the Service and the Office of the Immigration Judge may send notices to the alien and at which the alien may be found;

--employment or other suitable means of support is available to the alien, with the name and address of the employer or of the person or entity who will be the source of the alien's support specified;

--the alien agrees, in a written statement signed by the alien personally;

--to report to the local INS office on a monthly basis; this report may be in person or by mail, in the discretion of the district director, and shall specifically indicate any change in the alien's address, employment, or representative;

--to appear for all hearings before the immigration judge;

--to appear for deportation, if the alien is ultimately ordered excluded; and,

--that the alien's parole may be terminated if the alien fails to comply with these requirements or if the alien is convicted of any felony or three misdemeanors;

--a bond in the amount of \$500.00 to \$2,500.00 is posted on the alien's behalf.

Page 4

Pilot Parole Project for Asylum Seekers

The responsibility for making the arrangements necessary in order for an alien to meet these criteria rests with the alien or the alien's representative, not with the Service.

If the Service has not already photographed and fingerprinted the alien, the Service shall do so before paroling the alien.

PAROLE OF EXCLUDABLE ASYLUM SEEKERS OUTSIDE THE PROJECT

Participation in the pilot project shall not be considered the sole basis for paroling excludable asylum seekers. District directors may grant parole for other reasons, as set forth in 8 C.F.R. § 212.5. The monthly reports, however, will only include information on the 200 project cases.

Gene McNary
Commissioner

cc: Official file
COCOU Log
COCOU FILE: 208
COCOU File: 212(d)(5)
All Regional Counsels
All District Counsels
All Sector Counsels
All INS SAUSAs
All General Law Division Members
M. Sheridan
CORAP
CODDP
COINS

Clearances**Initials****Date**

Assoc. Gen. Counsel, J. Podolny
Deputy Gen. Counsel, P. Virtue
General Counsel, W. Cook

INS: COCOUN. SHERIDAN: PILOT. PROJECT: 633-1260/4/26/1990

Root 7/26/90
Joe 4/26/90