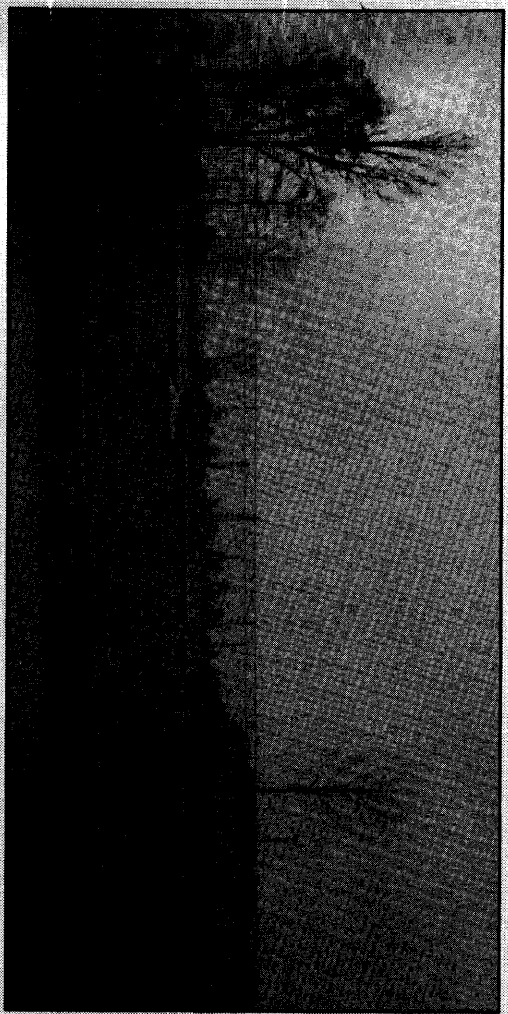


Oakdale Detention Center:

The First Year of Operation



A Report of the
Minnesota Lawyers International
Human Rights Committee

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Minnesota Lawyers International
Human Rights Committee
430 Marquette Ave., Suite 402
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MINNESOTA LAWYERS INTERNATIONAL HUMAN RIGHTS COMMITTEE

The Minnesota Lawyers International Human Rights Committee is a nonprofit organization committed to promoting human rights and to investigating human rights violations in the United States and abroad. The Committee was formed in 1983 by a group of lawyers concerned about human rights, and has since grown to include over 600 members.

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Cover Photo: A view of the Oakdale Detention Center, taken in February 1987.

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I. PREFACE

This report gives an account of human rights conditions at the Oakdale Federal Alien Detention Center during its first year of operation. The Center, located in Oakdale, Louisiana, is the largest immigration detention facility in the United States. This report is based on information obtained by two delegations from the Minnesota Lawyers International Human Rights Committee who visited the facility, and on additional background research.

The Minnesota Lawyers Committee investigated conditions at Oakdale for two reasons. First, the staff of Oakdale Legal Assistance reported that detainees were denied access to counsel and subjected to abuses within the facility. The Committee was also intrigued by the complete change in the purpose of the facility, after only six months of operation, from the detention and deportation of a diverse group of detainees to the long-term detention of Mariel Cubans who have been convicted of crimes in the United States. They are called "Mariel Cubans" because

they were among 125,000 Cubans who came to the United States on boats from Mariel Harbor, Cuba in 1980.

The first Minnesota Lawyers Committee delegation visited Oakdale from November 5-7, 1986. The members of this group included Susan Conley, Director of Centro Legal, a St. Paul non-profit community law office; Chris Peterson, a St. Paul attorney; and Carol Merlin Queensen, a Minneapolis Immigration attorney. They visited while Oakdale was still a short-term detention center for detainees from a variety of countries. This first delegation interviewed staff at Oakdale Legal Assistance (OLA), the Bureau of Prisons (BOP), the Immigration and Naturalization Service (INS), the Executive Office of Immigration Review (EOIR), several detainees at the facility, and local private attorneys. The group also toured the facility and observed approximately 20 hearings.

Among those interviewed were Victoria Sanford, OLA director; Tracy Jones, OLA attorney; OLA paralegals Robert Kahn, Sister Suzanne Lasseigne, and Molly Molloy; Ray Rowe, BOP assistant to the warden; Elliot Caggins, BOP Educational Director; Bill Buddenberg, INS Deportation Supervisor; INS attorneys Daniel Picchio, James Blin and Charles Weigand; Judge John Duck, EOIR; and private attorneys Lourdes Naranjo and Mark Oliver.

The second Minnesota Lawyers Committee delegation went to Oakdale from February 18-20, 1987. This delegation included Karen Ellingson, an attorney at Oficina Legal of Southern Minnesota Regional Legal Services; Lisa Knazan,

Minneapolis Legal Aid Society attorney; Ron Rosenbaum, a St. Paul attorney; Carol Merlin Queensen, mentioned above; and Kai Bjerkness, a staff person for Minnesota Congressman Gerry Sikorski. They visited after Oakdale became a facility for Mariel Cubans, and they investigated the changes this brought to Oakdale.

The second group also met with BOP and INS officials at the Oakdale facility and with Cuban detainees. Among those interviewed were J.R. Johnson, BOP warden; Elliot Caggins, BOP Educational Director; David Johnston, INS assistant warden; and Bill Buddenberg, INS Deportation Supervisor. They also spent about two hours touring the facility.

This report was written and edited by Marie Bibus and Barbara Frey, Minnesota Lawyers International Human Rights Committee; Susan Conley, Centro Legal; Karen Ellingson, Oficina Legal; Mary Beth Gossman and William Kennedy, University of Minnesota Law School; Lisa Knazan, Minneapolis Legal Aid Society; and attorneys Debby Kleinman McNeil, Chris Peterson, Carol Merlin Queensen, and Ron Rosenbaum.

II. INTRODUCTION

Recent United States immigration policy has shown an alarming shift toward the incarceration of undocumented aliens. This trend culminated in April, 1986 with the opening of the largest alien detention center in the country in Oakdale, Louisiana. The Oakdale Federal Alien Detention Center increased the detention capacity of the Immigration and Naturalization Service (INS) by 50 percent. The Center can permanently house 1,000 aliens, and has emergency facilities to hold 5,000 more.

Oakdale's first year of operation was one of change and transition. During the first six months, the Detention Center held aliens of many different nationalities (referred to below as multinational aliens) who were detained, waiting for their deportation or exclusion hearings. Most were from Central America. By November of 1986, thousands of these aliens had been deported.

On October 17, 1986, the INS announced at a press conference that the purpose of the Oakdale Detention Center

would change from temporary detention of multinational aliens to the indefinite detention of Cuban aliens only. All the deportable detainees were moved to other immigration detention facilities, such as Port Isabel in Texas, or were released on bond or on their own recognizance.

Beginning in December, several hundred Cubans were transferred to Oakdale from the Atlanta Federal Penitentiary. These Cubans, who came to the United States in the 1980 boatlift from Mariel Harbor, are in immigration custody because of crimes committed in the United States. Under ordinary circumstances, they would be deported. Cuban President Fidel Castro, however, has refused to permit their return.

The stated policy of the INS is the release of most of the Mariel Cubans to halfway houses during the next few years. It remains to be seen whether such a policy can be successfully implemented. If, and when, that policy is carried out, it is expected that Oakdale may revert to a short-term holding facility for multinational aliens. In the long-term future, the facility will remain available as a holding facility for unwelcome new aliens.

This report records some of the consequences of United States immigration policy as reflected in the operation of the Oakdale Detention Center. It describes the improper, illegal, and sometimes cruel treatment of the multinational aliens. It also records the most recent unfortunate chapter in the Mariel Cuban story. Finally, it makes

recommendations for a more humane approach to the problem of illegal immigration.

III. BACKGROUND: A SHIFT IN UNITED STATES IMMIGRATION POLICY

In 1958, four years after Ellis Island officially closed, the United States Supreme Court proclaimed, "physical detention of aliens is now the exception, not the rule. Certainly this policy reflects the humane qualities of an enlightened civilization." This decision marked the beginning of a new era during which the INS detained only a small percentage of all refugees.

The enlightened approach ended abruptly, however, less than 25 years later. The 1980's have seen a dramatic increase in the incarceration of refugees. In 1982, the INS passed a rule allowing the detention of all aliens without proper travel documents.¹ Now, only those aliens who fit into certain stringent categories, e.g. those

¹ 47 Fed. Reg. 46, 493 (1982), codified at 8 C.F.R. Sections 212.5, 235.3 (1985).

needing medical care, qualify to live in the community rather than in detention.

The recent restrictive policy coincided with the increase in immigrants fleeing extreme poverty and political violence in Haiti, Cuba, and Central America. During 1980, crowded boats brought 125,000 Cubans and 11,000 Haitians to the coast of Florida. In addition, some 400,000 to 600,000 Salvadoran refugees have crossed the Mexican-American border since 1982.

At least some of these immigrants qualify as refugees and are entitled to certain protections under international law. The United Nations Protocol Relating to the Status of Refugees was adopted to promote a more open policy toward refugees, particularly those fleeing persecution in their countries of origin. It prohibits the return of refugees to countries where their lives would be threatened, and states that unnecessary restrictions should not be imposed on the freedom of movement of refugees.

In 1980, the United States Congress passed the Refugee Act to make United States law coincide with international law. Under the Federal Act, people entering the United States without documentation have the right to apply for political asylum and to obtain legal counsel. The Attorney General has discretion to grant asylum if the applicant has a "well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." The United States Supreme Court recently held, in I.N.S. v. Cardoza-Fonseca, that

under this standard asylum applicants must only show a reasonable possibility that he or she will be singled out for persecution, not that it is more likely than not that he or she will be persecuted.

The increased use of detention defeats the purposes of the U.N. Protocol and the 1980 Refugee Act. Under current practice, refugees who choose to assert an asylum claim often have to wait in detention until the lengthy process is completed, unless they are able to post a bond which can be set at several thousand dollars. The prospect of detention that could last over a year can strongly discourage a potential asylum seeker. Asylum claimants are also deterred by the practical difficulties of preparing an asylum case while in custody at a remote facility where access to counsel is extremely limited.

Refugees from certain countries have little hope of being granted asylum under any circumstances because of inequities in the implementation of asylum law. Statistics show a relationship between American foreign policy and the approval of asylum requests. In cases decided between June 1983 and September 1986, only 2.6% of Salvadoran asylum applicants and .9% of Guatemalan applicants were granted asylum in the United States. In contrast, the approval rate during the same period was 60.4% for Iranians, 51% for Romanians, 37.7% for Afghans, and 14% for Nicaraguans.²

² The Cardoza-Fonseca decision will undoubtedly have an impact on these statistics. It is too early, however, to speculate on whether one nationality will benefit more than another.

The United States has systematically denied asylum to Salvadorans, despite evidence, such as that provided in a study conducted by the Massachusetts Institute of Technology, showing that "fear of political violence is the predominant motive behind the decision of Salvadorans to migrate." The Reagan Administration bases its position on its support of the current government in El Salvador, headed by President Jose Napoleon Duarte. The United States consistently refuses to acknowledge that an increasing number of civilians are fleeing El Salvador because of human rights abuses there. Instead, it categorizes all Salvadorans as economic migrants.³

The differential treatment accorded to asylum seekers from certain countries violates international law and the 1980 Refugee Act. The federal Act was enacted specifically to eliminate the political factor from asylum decisions. Despite this intent, foreign policy clearly continues to affect asylum decisions.

³ The practice of deporting Salvadorans was recently tested when President Duarte requested that refugees from his country be allowed to stay in the United States. Although the Reagan Administration rejected President Duarte's appeal, the INS acknowledged that it did not intend to round up large numbers of Salvadorans for deportation.

IV. THE PLANNING OF OAKDALE

The city of Oakdale, population 7,100, was very eager to have the detention facility built near the town. Unemployment in Oakdale hit 31.9% in 1986 after the area's largest employer, a paper mill, closed. Oakdale politicians and business people sought the Center as a partial solution to high unemployment. Oakdale Mayor George Mowad lobbied in Washington, and Oakdale residents sent the Justice Department hundreds of letters and telegrams urging that the new facility be located in their city. After the INS announced its decision, the local paper was topped with a three-inch headline in red ink that read, "WE GOT IT!"

Mayor Mowad felt the Detention Center would lead to the "economic rebirth of Allen Parish and Oakdale", and called the Center a "recession-proof industry." The city expected the Center to create 315 new jobs with salaries averaging \$24,000 a year. The city hoped the new jobs

would boost the economy in Oakdale, where the average annual income was only \$7,000.

In contrast, civil rights organizations opposed Oakdale as the detention center's site. The most immediate concern was that locating the facility in a small town, 200 miles from Houston or New Orleans, would make it extremely difficult for detainees to obtain legal counsel. Attorney Arthur Helton of the Lawyers Committee for Human Rights in New York pointed out that Oakdale had only five lawyers, none with experience in immigration law. In addition, a survey conducted by the American Civil Liberties Union (ACLU) found only three attorneys out of 650 in nearby cities who were willing or able to volunteer services for the detainees.

In 1985, the ACLU tried unsuccessfully to block construction of the Oakdale Detention Center. The ACLU lawsuit challenged the Oakdale site, arguing that the location was too remote and that aliens would be effectively denied access to counsel. A federal judge dismissed the case stating that the claims were premature, since the Center had not yet opened.

The construction of the Center was allowed to proceed and, on March 21, 1986, a ribbon-cutting ceremony was held. By that time, most of the buildings had been completed, except for the maximum security unit. The buildings included three dormitories with 988 beds and an administration building with eight courtrooms for immigration hearings. Two rows of fences topped with

barbed wire had been erected around the complex. The total construction cost of the facility was about \$17.5 million.

V. MULTINATIONAL ALIENS AT OAKDALE: April-November 1986

On April 7, 1986, the first group of 50 aliens was brought to the Oakdale Detention Center. During the next six months, the facility operated as a deportation center for a rotating population of 750-1,000 detainees from Central and South America, Africa, Europe, and the Middle East. The Center was equipped with three immigration judges and three INS attorneys whose primary function was to conduct deportation hearings. By October 1986, over 5,000 immigrants had been processed at Oakdale -- most were deported.

The following is a description of conditions of detention and due process concerns at Oakdale during the initial phase of short-term detention and deportation of immigrants from many countries. In particular, the sections below focus on access to counsel, the manner in which immigration proceedings were conducted, and abuses perpetrated upon aliens during their stay at the Center.

A. TRANSFERRING ALIENS TO OAKDALE

The availability of space and immigration judges at Oakdale became an immediate draw for the transfer of aliens from other parts of the country. The transfer of large numbers of aliens to Oakdale produced many problems. For example, many aliens were transferred without adequate notice or an order from an immigration judge granting a change of venue.

One well-publicized incident occurred during the week prior to the Independence Day celebration. Over forty Salvadorans from New York City were rounded up after the INS raided two factories in New York. Soon after their arrest, the aliens were chained together and put on a plane to Oakdale. Some of the aliens were not allowed to contact their families or their attorneys before they left New York.

The Minnesota Lawyers Committee delegation heard many similar stories of aliens, several with legal representatives on record, who were transferred with less than 24 hours personal notice, and little or no notice to their legal representatives. Detainees complained that the INS and the Bureau of Prisons lost their belongings. In some cities, the INS would not allow aliens to collect personal belongings before the transfer to Oakdale. It was also reported that some aliens were chained and handcuffed while being transported to Oakdale and, according to a detainee interviewed by the Lawyers Committee delegation,