

Testimony of

# The Honorable Glenn A. Fine

June 25, 2003

Mr. Chairman, Senator Leahy, and Members of the Committee on the Judiciary:

Thank you for inviting me to testify about the Office of the Inspector General's (OIG) report that examines the treatment of aliens held on immigration charges in connection with the investigation of the September 11, 2001, terrorist attacks.

In my testimony today, I will summarize the major findings and recommendations from our 198-page report, which we released on June 2. However, to help place our findings in context, I will first describe the background and scope of our review.

## I. BACKGROUND AND SCOPE OF OIG REVIEW

The OIG conducted this review under the authority of the Inspector General Act and the specific directives contained in The USA PATRIOT Act (Patriot Act). Section 1001 of the Patriot Act directs the OIG to receive and review claims of civil rights and civil liberties violations by Department of Justice (Department) employees and to inform Congress about the results of our reviews.

Pursuant to these responsibilities, the OIG initiated this review examining the treatment of detainees arrested on immigration charges in connection with the Department's September 11 terrorism investigation, known as PENTTBOM. The FBI initiated this massive investigation to identify the terrorists who committed the September 11 attacks and anyone who knew about or aided their efforts. In addition, the FBI worked with other federal, state, and local law enforcement agencies to prevent any follow-up attacks in this country and abroad.

Given the identities of the September 11 terrorists, the Department recognized from the earliest days that the investigation contained a significant immigration law component. One of the principal responses by law enforcement authorities after the attacks was to use federal immigration laws to detain aliens suspected of having possible ties to terrorism. Many of these individuals were questioned and subsequently released without being charged with a criminal or immigration offense. Many others were arrested and detained for violating federal immigration laws.

Our review determined that 762 aliens were detained on immigration charges in connection with the terrorism investigation in the first 11 months after the attacks. Of these 762 aliens, 24 were in the custody of the Immigration and Naturalization Service (INS) on immigration violations prior to the terrorist attacks. All 762 aliens were placed on what became known as an "INS Custody List" because of the FBI's assessment that they may have had a connection to the September 11 attacks or terrorism in general, or because the FBI was unable, at least initially, to determine whether they were connected to terrorism. In our review, these aliens are referred to as "September 11 detainees."

Our review examined various issues relating to these detainees, including:

? the classification of the September 11 detainees;

? the timeliness of charging September 11 detainees with immigration violations;

? issues affecting the length of the detainees' confinement, including the process undertaken by the FBI and others to clear individual detainees of a connection to the September 11 attacks or terrorism in general;

? bond decisions for the detainees;

? the timing of removal of the detainees; and

? the conditions of confinement for the September 11 detainees.

Our review focused on detainees held at the Passaic County Jail (Passaic) in Paterson, New Jersey (a county facility under contract to the INS) and at the Metropolitan Detention Center (MDC) in Brooklyn, New York, operated by the Federal Bureau of Prisons (BOP). We chose these two facilities because they held the majority of September 11 detainees and were the focus of many complaints about detainee mistreatment.

At the outset, it is important to understand not only what our review examined, but also what it did not examine. We did not review all aspects of the Department's terrorism investigations. For example, we did not review individuals arrested on criminal charges in connection with the terrorism investigation or those held on material witness warrants. We did not examine the treatment of aliens or United States citizens considered enemy combatants and held in Guantanamo or in the United States. Further, we did not examine or assess the Department's decision to limit public release of information concerning arrests related to the ongoing terrorism investigation, the Department's decision to close immigration hearings to the public, or its use of voluntary interviews for certain categories of aliens. Several lawsuits related to these issues are currently pending. It was beyond the scope of our review to examine these issues, and we took no position on them.

In addition, it is important to understand the context of our findings. In response to the September 11 terrorist attacks on the United States, the FBI allocated massive resources to the PENTTBOM investigation, assigning more than 4,000 FBI special agents and 3,000 FBI support personnel to work on it within days of the attacks. The amount of information and leads about the attacks and potential terrorists that the FBI received in the weeks and months after the attacks was staggering. Moreover, as our report points out, the Department was faced with unprecedented challenges responding to the attacks, including the chaos caused by the attacks and the possibility of follow-up attacks. The FBI in New York, for example, was forced to evacuate its offices that were located near Ground Zero and had to set up command posts in a parking garage and other sites in the New York area. In addition, during the fall of 2001 and the spring of 2002, FBI field offices were conducting other important investigations, including the anthrax attacks, the Daniel Pearl kidnapping in Pakistan, and the crash of an airliner in Queens, New York. At the same time, the FBI was assisting with security for the Winter Olympics in Salt Lake City.

Moreover, it also is important to recognize that Department employees worked tirelessly and with enormous dedication over an extended period of time to meet the challenges posed by the September 11 attacks and the ongoing threat of terrorism. In conducting our review, we were mindful of this context and the circumstances confronting Department employees at the time. Our findings should not be used to diminish, in any way, the dedication and contributions Department employees made and continue to make to ensure the safety of the country.

Yet, while recognizing these difficulties and challenges that confronted and still confront the Department, we found significant problems in the way the Department handled the September 11 detainees. As the title of this hearing indicates ("Lessons Learned - The Inspector General's Report on the 9/11 Detainees"), we believe that lessons can be learned from a review of this issue. In that vein, we make 21 recommendations in our report to help improve the Department's handling of detainees in the future.

I will now discuss the major findings of our review, as well as our recommendations.

## II. SUMMARY OF OIG FINDINGS

### A. Classification of Detainees

In the aftermath of the September 11 attacks, the FBI pursued thousands of leads relating to its PENTTBOM investigation, in New York and elsewhere, ranging from information obtained from a search of the hijackers' cars to anonymous tips called in by people who were suspicious of Arab and Muslim neighbors who kept odd schedules. If the FBI encountered an alien in connection with pursuing any of these leads, whether or not the alien was the subject of the lead, the FBI asked the INS to determine the alien's immigration status. If the alien was found to be in the country illegally - either by overstaying his visa or entering the country illegally - the alien was detained by the INS.

The FBI then was asked to make an assessment of whether the arrested alien was "of interest" to its terrorism

investigation. If the FBI indicated that the alien was "of interest," "of high interest," or "of undetermined interest," the alien was placed on the INS Custody List and treated as a September 11 detainee.

These initial classifications by the FBI had significant ramifications for the detainees. First, the Department instituted a policy that any detainee on the INS Custody List had to be detained until cleared by the FBI. Although never communicated in writing, this "hold until cleared" policy was clearly understood and applied throughout the Department. As a result, the September 11 detainees were not allowed to be released on bond according to normal INS procedures and were not allowed to depart or be removed from the United States before FBI clearance, even if an Immigration Judge ordered their removal or the detainee voluntarily agreed to leave. Second, the initial classification decision by the FBI often determined where the detainees would be confined and their conditions of confinement.

Our review found that these classification decisions were not handled uniformly throughout the country. FBI and INS offices outside New York City attempted to screen out or "vet" cases in which illegal aliens were encountered only coincidentally to a PENTTBOM lead or showed no indication of any connection to terrorism. In these cases, the alien was not placed on the INS Custody List and was processed according to normal INS procedures.

However, this vetting process was not used in the New York City area. Rather, the FBI in New York did not attempt to distinguish between those aliens who it actually suspected of having a connection to the September 11 attacks or terrorism from those aliens who, while possibly guilty of violating federal immigration law, had no connection to terrorism but simply were encountered in connection with a PENTTBOM lead. As a result, anyone picked up in connection with a PENTTBOM lead in the New York area was deemed "of interest" for purposes of the "hold until cleared" policy, regardless of the origin of the lead or any genuine indications of a possible connection to terrorism. For example, if an agent searching for a particular person on a PENTTBOM lead arrived at a location and found other individuals who were in violation of their immigration status, those individuals were detained and considered to be arrested in connection with the PENTTBOM investigation.

Our review does not criticize the Department's decision to investigate or require FBI clearance for aliens who the FBI actually suspected of having a connection to terrorism or the September 11 attacks. However, we do criticize the inconsistent manner in which these decisions were made. Even in the hectic aftermath of the September 11 attacks, we believe the FBI should have taken more care to attempt to distinguish between aliens who it actually suspected of having a connection to terrorism and aliens who, while guilty of violating immigration law, had no connection to terrorism but simply were encountered in connection with a PENTTBOM lead. In most parts of the country this was done; in New York, where the bulk of the September 11 detainees were arrested, it was not.

## B. Notice of Charges

Our review found that many September 11 detainees did not receive notice of the charges against them in a timely manner. Normally, after an alien is arrested for violating federal immigration law, the INS notifies the alien of the charges and initiates a removal proceeding by serving a Notice to Appear (NTA) on the alien and the Immigration Court. The NTA must include the alien's specific acts or conduct that is in violation of the law.

Prior to the September 11 attacks, the INS was required by federal regulation to make this charging determination within 24 hours of arrest. The Department changed the regulation soon after the September 11 attacks to allow the INS 48 hours to make the determination. The revised regulation also included an exception to the 48-hour rule that provided that in the event of an emergency or other extraordinary circumstances, the charging decision could be made within an additional reasonable period of time. The regulation does not define "extraordinary circumstances" or "reasonable period of time." Moreover the regulation contains no requirement as to when the INS must notify the alien of the charges; the regulation only addresses when the INS must make its charging decision.

Our review determined that the INS did not record when the charging decisions were actually made, but it did record when the charges were served on the alien. According to the INS, before the September 11 attacks its goal was to serve charges on aliens in writing within 48 hours of arrest. After September 11, the INS's goal was to serve charges on aliens within 72 hours.

We found that the INS served 60 percent of the September 11 detainees with NTAs within its goal of 72 hours. However, many detainees did not receive their charging documents for weeks, and some for more than a month,

after being arrested. Detainees housed in the MDC received notice of their charges an average of 15 days after their arrest. Delays were caused by several factors, including the INS's decision to review and approve all charges at INS Headquarters and miscommunications between the INS New York and Newark Districts, each of which presumed that the other office had served the charging documents on aliens who were transferred from the INS in New York to the INS in Newark.

The delays in receiving notice of the charges affected the September 11 detainees in various ways. First, it postponed detainees' knowledge of the specific immigration charges they faced. Second, it affected the detainees' ability to obtain effective legal counsel given the lack of specific charges. Third, it delayed the detainees' opportunity to request bond re-determination hearings and seek release.

### C. The Clearance Process

Our review found that the Department's "hold until cleared" policy was based on the belief - which turned out to be erroneous - that the FBI's clearance process would proceed quickly. For example, many Department officials told us that they believed that the FBI would take a few days or a few weeks to clear aliens arrested on PENTTBOM leads but who had no additional indications of a connection to terrorism.

That belief was inaccurate. The FBI cleared less than 3 percent of the 762 September 11 detainees within 3 weeks of their arrest. The average length of time from arrest of a September 11 detainee to clearance by FBI Headquarters was 80 days. More than a quarter of the 762 detainees' clearance investigations took longer than 3 months.

The delays in the clearance process were attributable to various factors. The FBI did not provide adequate field office staff to conduct the detainee clearance investigations in a timely manner and failed to provide adequate FBI Headquarters staff to coordinate and monitor the detainee clearance process. We also found that, in New York, once the FBI investigated a lead and the INS arrested an alien in connection with the lead, FBI agents generally moved on to the next lead rather than investigate or clear the person arrested. In addition, FBI Headquarters did not set any time limits for completing the clearance investigations. The FBI also requested CIA checks on the detainees, but the FBI often took months to review the information it received from the CIA. We also found delays between when local FBI offices cleared the detainees and when FBI Headquarters processed the final clearances.

As we note in the report, in contrast to the untimely clearance process for September 11 detainees, the FBI did a much better job handling clearances from a "Watch List" it sent to airlines, rail stations, and common carriers to assist in the terrorism investigation. For example, the FBI created guidelines for who should be placed on the Watch List, and it worked diligently to remove as quickly as possible those people from the list who had no connection to terrorism. The FBI's efficient handling of this Watch List contrasts markedly with its handling of the clearance process for September 11 detainees.

As discussed below, the untimely clearance process for September 11 detainees had significant ramifications for the detainees, who were denied bond and were not permitted to leave the country until the clearance process was completed, even when they had received final orders of removal or voluntary departure orders.

### D. Bond and Removal Issues

The Department instituted a "no bond" policy for all September 11 detainees as part of its decision to hold the detainees until the FBI could complete its clearance investigations. Several INS officials told the OIG that, at least initially, they expected the FBI to provide them with information to present at bond hearings to support the "no bond" position. Instead, INS officials told the OIG that often they received no information from the FBI about September 11 detainees and, consequently, had to request multiple continuances in the detainees' bond hearings.

Our review determined that the INS raised concerns about this situation, particularly when it became clear that the FBI's clearance process was much slower than anticipated and the INS had little information in many individual cases on which to base its continued opposition to bond. As a result, the INS was placed in the position of arguing for "no bond" even when it had no information from the FBI to support that argument, other than the fact that the detainee was arrested in connection with a PENTTBOM lead.

Moreover, the question arose whether the INS legally could hold September 11 detainees after they had received final orders of removal or voluntary departure orders from an Immigration Judge. In general, aliens found to have violated immigration law must be removed from the United States within 90 days of when the alien is ordered removed. Because of the "hold until cleared policy," detainees were held, even beyond the 90 days normally provided for removal, despite their willingness and ability to leave the country. Senior INS attorneys expressed doubts about the legality of preventing the September 11 detainees from leaving the country, not only after the 90-day period had expired but even within the 90-day removal period, if the detainee was willing to leave the country and arrangements could be made to remove the detainee.

Considering the significant concerns that INS attorneys harbored about the legality of the Department's policy, we believe the INS had a responsibility to press the issue clearly - and in writing - if it believed that the policy presented a legal issue for the Department. It did not do so until January 2002, several months after the issue first arose.

In late January 2002, the FBI brought this issue to the Department's attention, and the Department abruptly changed its position as to whether the INS should continue to hold aliens after they had received final departure or removal orders until the FBI had completed the clearance process. After this time, the Department allowed the INS to remove aliens with final orders without FBI clearance.

A Department legal opinion - issued by the Office of Legal Counsel in February 2003, well after the time frame under examination in this review - ultimately concluded that it was permissible for the Department to take more than 90 days to remove an alien if the delay was related to affecting the nation's immigration laws and policies. The opinion concluded that investigating whether an alien had terrorist connections met this test. A pending lawsuit also is addressing this legal issue.

Our report concluded that the Department did not address this issue in a timely or considered way and abruptly changed its policy in January 2002, without the benefit of a legal analysis. Only later did the Department request a legal opinion. We believe the Department should have addressed squarely and earlier the issue of the Department's authority to hold detainees up to and beyond 90 days from when they received final orders of removal.

Finally, federal regulations require that aliens held for 90 days after final orders of removal are entitled to custody reviews to determine if their continued custody is warranted. We found that the INS rarely conducted such required reviews for the September 11 detainees.

## E. Conditions of Confinement

The INS made the decision where to house September 11 detainees, relying primarily on the FBI's assessment of the detainees' possible links to terrorism. Aliens deemed by the FBI to be "of high interest" to its terrorism investigation generally were held in BOP high-security facilities, such as the MDC in Brooklyn, New York. Generally, although not always, aliens deemed by the FBI to be "of interest" or "of undetermined interest" were detained in lower-security facilities, such as the Passaic County Jail in Paterson, New Jersey. FBI agents generally made this assessment of interest without guidance or standard criteria, based on the limited information available at the time of the aliens' arrests.

Where a September 11 detainee was confined had significant ramifications, because a detainee held at the MDC experienced much more restrictive conditions of confinement than those held at Passaic.

### 1. Metropolitan Detention Center

In examining the treatment of detainees at the MDC, we appreciated the fact that the influx of high-security detainees stretched the MDC's resources. Its employees often worked double shifts during a highly emotional period of time, close to the scene of the terrorist attacks. We also appreciate the uncertainty surrounding the detainees and the chaotic conditions in the immediate aftermath of the September 11 attacks.

However, our review raises serious concerns about the treatment of the September 11 detainees housed at the MDC. In the heightened state of alert after the terrorist attacks, the BOP imposed a total communications blackout for several weeks on the September 11 detainees held at the MDC. After the blackout period ended, the MDC combined a series of existing policies and procedures for inmates in other contexts and applied them to the September 11 detainees. For example, the MDC designated the detainees as "Witness Security" inmates in an effort to restrict access to information about them, including their identity, location, and status. Designating the detainees at the MDC in this manner frustrated efforts by detainees' attorneys, families, and even law enforcement officials to determine where the detainees were being held. As a result of this designation, we found that MDC staff frequently - and mistakenly - told people who inquired about a specific September 11 detainee that the detainee was not held at the facility when, in fact, the detainee was there.

Further, the MDC's restrictive and inconsistent policies on telephone access for detainees prevented some detainees from obtaining legal counsel in a timely manner. Most of the September 11 detainees did not have legal representation prior to their detention at the MDC. Consequently, the policy instituted by the MDC that permitted detainees only one legal call per week - while complying with broad BOP national standards - severely limited the detainees' ability to obtain and consult with legal counsel.

Further complicating the detainees' efforts to obtain counsel, the pro bono attorney lists provided September 11 detainees contained inaccurate and outdated information. As a result, detainees often used their sole legal call during a week to try to contact one of the legal representatives on the pro bono list, only to find that the attorneys either had changed their telephone numbers or did not handle the particular type of immigration situation faced by the detainees.

In addition, detainees complained that legal calls that resulted in a busy signal or calls answered by voicemail counted as their one legal call for that week. When questioned about this, MDC officials gave differing responses about whether or not reaching an answering machine counted as a completed legal call. We believe that counting calls that only reached a voicemail, resulted in a busy signal, or went to a wrong number was unduly restrictive and inappropriate.

Moreover, the manner in which the MDC inquired whether the detainees wanted to place a legal call was unclear. In many instances, the unit counselor inquired whether September 11 detainees wanted their weekly legal call by asking, "are you okay?" Several detainees told the OIG that for some time they did not realize that an affirmative response to this casual question meant they opted to forgo their legal call for that week. We believe the BOP should have asked the detainees directly "do you want a legal telephone call this week?" rather than relying on the detainees to decipher that a shorthand statement "are you okay?" meant "do you want to place a legal telephone call?" As a result of these policies, it took many detainees a long period of time to contact a lawyer.

The MDC created a new special housing unit (called the Administrative Maximum Special Housing Unit, or ADMAX SHU) to hold the September 11 detainees until the FBI cleared them. In this unit, the MDC applied existing BOP policies applicable to inmates in disciplinary segregation. As a result, the detainees were placed in restraints whenever they were moved, including handcuffs, leg irons, and heavy chains. Four MDC officers had to be present each time a detainee was escorted from the cell.

Because of these restrictive conditions, we believe it was important for the FBI to determine, in a reasonable time frame, whether these detainees were connected to terrorism or whether they could be cleared to be moved from the ADMAX SHU to the MDC's much less restrictive general population. Yet, detainees remained in the ADMAX SHU for long periods of time waiting for the FBI's clearance process. Even when the FBI cleared the detainees, they remained in the ADMAX SHU for days and sometimes weeks longer than necessary due to delays between the time the FBI cleared a detainee of a connection to terrorism and the time the MDC received formal notification of the clearance.

The OIG found that certain other conditions of confinement for the September 11 detainees at the MDC were unduly harsh, such as subjecting the detainees to having two lights illuminated in their cells 24 hours a day for several months longer than necessary, even after electricians rewired the cellblock to allow the lights to be turned off individually.

With regard to allegations of abuse, we concluded that the evidence indicates a pattern of physical and verbal abuse by some correctional officers at the MDC against some September 11 detainees, particularly during the first months after the attacks and during intake and movement of prisoners. This generally consisted of slamming some detainees into walls; dragging them by their arms; stepping on the chain between their ankle cuffs; twisting their arms, hands, wrists, and fingers; and making slurs and threats such as "you will feel pain" and "you're going to die here."

Most correctional officers we interviewed denied the allegations of abuse, and federal prosecutors have declined the cases for criminal prosecution. However, the OIG is continuing to investigate these matters administratively. Our investigation has not uncovered any evidence that the physical or verbal abuse was engaged in or condoned by anyone other than the correctional officers who committed it.

We also found that MDC staff failed to inform MDC detainees in a timely manner about the process for filing formal complaints about their treatment.

In addition, we found that MDC staff appropriately took some affirmative steps to prevent potential staff abuse against September 11 detainees - and potentially protect MDC staff from unfounded allegations of abuse - by installing security cameras in each detainee's cell and by requiring staff to videotape all detainee movements outside their cells. However, the BOP changed its policy and permitted MDC staff to reuse or destroy these videotapes after 30 days (as opposed to keeping them "indefinitely" as required in the original policy), which hampered the usefulness of the videotape system to prove or disprove allegations of abuse raised by individual detainees.

The decision to change the videotape policy was made by a BOP Regional Director. We do not believe, and have found no evidence to suggest, that the decision to change the policy was designed to cover up abuse. We also understand the difficulty in storing the hundreds of videotapes the MDC accumulated after several months of taping the detainees. But the decision to recycle or destroy the videotapes after 30 days meant that the usefulness of the tapes was limited.

## 2. Passaic County Jail

In contrast to our findings at the MDC, our review found that the September 11 detainees confined at Passaic had much different, and significantly less harsh, experiences. According to INS data, Passaic housed 400 September 11 detainees from the date of the terrorist attacks through May 30, 2002. This was the largest number of September 11 detainees held at any single U.S. detention facility.

Passaic detainees housed in the general population were treated like "regular" INS detainees who also were held at the facility. Although we received some allegations of physical and verbal abuse, we did not find the evidence indicated a pattern of abuse at Passaic. However, we did find that the INS failed to conduct sufficient and regular visits to Passaic to ensure the September 11 detainees' conditions of confinement were appropriate.

## III. RECOMMENDATIONS

We believe the chaotic situation and uncertainties surrounding the detainees' role in the September 11 attacks, and the potential of additional attacks, explain many of the problems we found in our review, but they do not explain or justify all of them. We therefore offered 21 recommendations to address the issues in our review. We have asked the Department, the FBI, and the BOP to respond to these recommendations in writing within 30 days. The Department of Homeland Security (DHS) OIG has made the same request on our behalf to the immigration officials involved in these issues but who have since transferred out of the Department of Justice into DHS. At this stage, it appears that the Department and its components are taking our recommendations seriously and are considering implementing many of them.

Examples of our recommendations include:

? The Department and the FBI should develop clearer and more objective criteria to guide their classification decisions in any future cases involving mass arrests of illegal aliens in connection with terrorism investigations. We note that the FBI, in connection with its Watch List, developed guidance to govern who should be placed on that list. With regard to detainees the FBI could, for example, develop generic screening protocols (possibly in a checklist

format) to help agents make more consistent and uniform assessments of an illegal alien's potential connections to terrorism.

? Unless federal immigration authorities, now part of the DHS, work closely with the Department and the FBI to develop a more effective process for sharing information and concerns, the problems inherent in having aliens detained under the authority of one agency while relying on an investigation conducted by another agency can result in delays, conflicts, and concerns about accountability. We recommend that immigration officials enter into an agreement with the Department and the FBI to formalize policies, responsibilities, and procedures for managing a national emergency that involves alien detainees.

? While we appreciate the enormous demands placed on the FBI in the aftermath of the terrorist attacks, the FBI did not adequately staff or assign sufficient priority to investigate or clear September 11 detainees of a connection to terrorism. We believe it critical for the FBI to devote sufficient resources in its field offices and at Headquarters to conduct timely investigations on immigration detainees. In addition, FBI Headquarters officials who coordinate the detainee clearance process and FBI field office supervisors whose agents conduct the investigations should impose some deadlines on agents to complete background investigations or, in the alternative, reassign these cases to other agents.

? Under federal regulation, the INS was required to decide whether to file immigration charges against an alien within 48 hours of his arrest. However, the regulation contained no requirement with respect to when the INS must notify the alien or Immigration Court about the charges. We recommend that the immigration authorities in the DHS document when the charging determination is made in order to determine compliance with the "48-hour rule." We also recommend that the DHS convert the goal of service of charges on aliens within 72 hours to a formal requirement. Further, we recommend that it be defined what constitutes "extraordinary circumstances" and the "reasonable period of time" when circumstances prevent the charging determination from being made within 48 hours.

? We recommend that the BOP establish a unique Special Management Category other than "Witness Security" for aliens arrested on immigration charges who may be of interest to a terrorism investigation. Such a classification should identify procedures that permit detainees' reasonable access to telephones more in keeping with the detainees' status as immigration detainees who may not have retained legal representation by the time they are confined, rather than as pre-trial inmates who most likely have counsel. In addition, BOP officials should train their staff on any new Special Management Category to avoid repeating situations such as when MDC staff mistakenly informed people inquiring about a specific September 11 detainee that the detainee was not held at the facility.

? We recommend that the BOP issue new procedures requiring that videotapes of detainees with alleged ties to terrorism be retained for longer periods of time.

? We recommend that the BOP ensure that all immigration detainees housed in a BOP facility receive timely notice of the facility's policies, including its procedures for filing complaints.

#### IV. CONCLUDING OBSERVATION

I believe it is important to recognize that, despite the sensitivity of many of the issues in our report, the Department fully cooperated with our review, including the Attorney General, the Deputy Attorney General, the FBI Director, and the many other Department officials and employees to whom we spoke. On June 2, we released our full report with only a few words or phrases that contain specific identifying information "redacted" (blacked out) because they were considered "Law Enforcement Sensitive" by the Department and the FBI.

The fact that the Department permitted the full report on these topics to be released publicly is a credit to the Department. It also is a strength of the system that was established in the Inspector General Act, which allows evaluations of important and sensitive government actions by an independent OIG.

Although people have interpreted our report differently, we have attempted to describe in detail the treatment of the September 11 detainees, to lay out the facts underlying the policies that were implemented, and to provide the basis for the recommendations we made. I believe this report can have a positive impact by describing what occurred and



providing recommendations for improvement should the Department be faced with handling detainees in other situations, both large and small scale, that may arise in the future.

This concludes my prepared statement. I would be pleased to answer any questions.