



International Refugee
Assistance Project



OFFSHORING HUMAN RIGHTS: Detention of Refugees at Guantánamo Bay

SEPTEMBER 2024

About IRAP

The International Refugee Assistance Project (“IRAP”) is a global legal aid and advocacy organization working to create a world where refugees and all people seeking safety are empowered to claim their right to freedom of movement and a path to lasting refuge.

This report compiles information that IRAP has learned through the individual representation of clients detained at the Migrant Operations Center (GMOC) at Naval Station Guantánamo Bay (NSGB) in Guantánamo Bay, Cuba, as well as policy advocacy, research, and interviews with people who have spent time at the GMOC.

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We dedicate this report to all people who have been and continue to be incarcerated at Guantánamo Bay, Cuba by the U.S. government.

Cover Photo Credit Paul Keller

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Executive Summary

For decades, the United States has detained refugees encountered at sea in a little-known facility, the Migrant Operations Center (the “GMOC”), in Guantánamo Bay, Cuba. In this new report, the International Refugee Assistance Project (IRAP) chronicles the journey of these refugees, who are detained indefinitely in prison-like conditions without access to the outside world and trapped in a punitive system operated by the Department of Homeland Security (DHS) and of State (DOS), the International Organization for Migration (IOM), and other private contractors, with little to no transparency or accountability.

Former IRAP clients, other detained refugees, and former staff at the GMOC describe the dilapidated building with mold and sewage issues, where families with young children are housed alongside single adults. They are denied confidential phone calls, even with their attorneys, and punished if they dare share accounts of mistreatment. Refugees are regularly confined to their rooms for weeks at a time. And although the GMOC detains traumatized children, there are no educational services or pediatric psychiatric care provided to them.

These refugees are forced to endure this treatment until a third country agrees to accept them for resettlement, even if they have family in the United States. And the process can take years unless they “choose” to return to the persecution they fled.

IRAP calls for swift action to ensure an end to the systematic human rights violations taking place at the GMOC. Specifically:

- 1** The U.S. government should shut down the GMOC and discontinue its use as a long-term detention center for refugees.
- 2** DHS should afford asylum seekers encountered at sea and on land the same due process protections historically associated with territorial asylum.
- 3** DHS should parole all refugees currently incarcerated at the GMOC into the United States and provide the same option to those incarcerated there in recent years.
- 4** Congress and agency oversight bodies should investigate rampant human rights abuses at the GMOC.
- 5** IOM should cease involvement with the GMOC and end its migrant detention operations worldwide.

As Alberto Corzo, a formerly detained refugee, said: *“Te hacen sentir que migrar es un delito. They make you feel as though to migrate is a crime.”*

The U.S. government cannot continue to hide its diversion and mistreatment of would-be asylum seekers by exiling them to Guantánamo Bay, out of reach of their families, advocates, and the public consciousness.

I. Introduction

In early 2022, IRAP received a referral from a former U.S. government official who was gravely concerned for the well-being of a family imprisoned at Guantánamo Bay: Jasiel, Yoanne, and their children,¹ “Pablo and María.”¹

Jasiel, Yoanne, their two minor children, and Jasiel’s elderly parents fled to the United States from Cuba in December of 2021 by boat, because they feared the Cuban government would harm them for their political opinions. Like many other political dissidents escaping governmental persecution, the family had to leave by sea because of their government’s control over airports.

Along the way, their boat broke down, and the U.S. Coast Guard intercepted the family and took them into custody. For approximately 21 days, the Coast Guard held the family on a patrol boat, waiting for U.S. immigration officials to determine the next steps. After an interview aboard the ship, officials from United States Citizenship and Immigration Services (USCIS) decided that the family merited the chance to seek refugee protection. Jasiel’s elderly parents developed urgent health issues while held at sea, which led USCIS to parole them temporarily into the U.S. for medical treatment. Rather than allowing Jasiel, Yoanne, and their children to enter the U.S. with their grandparents, USCIS chose to separate the family and transport and detain Jasiel, Yoanne, and their children at the Migrant Operations Center at Guantánamo Bay (the GMOC), a migrant detention facility distinct from the more widely known military prison at Naval Station Guantánamo Bay (NSGB).



Photo Credit Bruce Stanfield/iStock

The family was detained at the GMOC for over a year and told they must wait for a third country to accept them as refugees, or return to Cuba, where they faced persecution. Throughout their imprisonment, they were regularly confined to one room for weeks at a time. The children had no access to education or adequate healthcare, and they developed severe physical and mental health complications. The U.S. government refused to allow the family a confidential attorney-client phone call with their IRAP attorneys. Only after months of formal demands by IRAP and the family did the U.S. government allow one (and only one) 30-minute phone call. It ultimately took concerted pressure from IRAP, including a demand letter threatening to file a lawsuit in federal court, to secure the family’s release in early 2023.

The family’s experience is not unique. Thousands of refugees have been arbitrarily and unlawfully detained at Guantánamo Bay since the creation of the GMOC, pending a third-country

resettlement process that happens in the shadows. This report shares the experiences of several of those refugees and insights from staff who formerly worked at the GMOC.

Unfortunately, there is virtually no publicly available information about the GMOC from the U.S. government. On March 17, 2023, IRAP and the ACLU jointly submitted a Freedom of Information Act (FOIA) to DHS and DOS, and the U.S. Coast Guard, seeking information about the detention of migrants and refugees at the GMOC. The FOIA request remains pending, and the U.S. government has not produced any responsive records. The government's continued lack of transparency about the GMOC is especially concerning as it

continues to solicit contracts to operate the GMOC and detain refugee families with little to no oversight.²

The U.S. government's use of the GMOC to detain refugees it intercepts at sea and prevent them from seeking asylum in the U.S. contravenes its international and domestic legal and human rights obligations. IRAP demands the U.S. government shut down the GMOC, parole all refugees currently incarcerated at the GMOC into the United States, and also investigate the International Organization for Migration (IOM) and private prison contractors for their violations of detained refugees' human rights at GMOC. IRAP also calls on IOM to cease migrant detention operations globally.

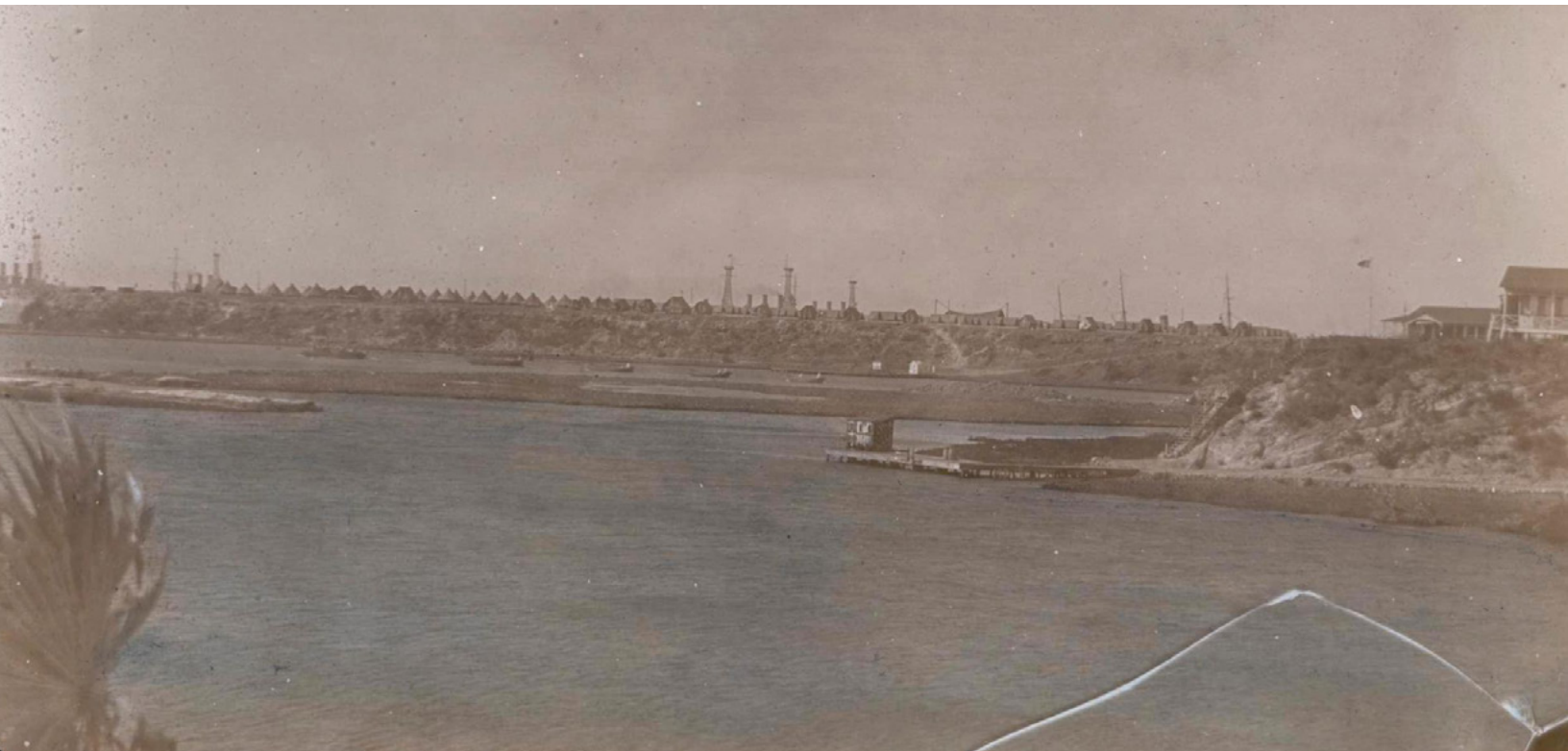


Photo Credit From the USS Mississippi Collection (COLL/963), Marine Corps Archives & Special Collections

II. A Brief History: The Creation of the Guantánamo Migrant Operations Center

The NSGB is a U.S. military base in Guantánamo Bay, Cuba, infamous for its role as a military prison and its extrajudicial detainment of post-September 11th prisoners. Legal scholars refer to the military base at Guantánamo Bay as a “legal black hole” and an “anomalous zone” that the U.S. government uses to subvert its constitutional principles.³ Less well-known is that for more than 60 years, the base has served as a detention center for asylum seekers and refugees, mainly Haitians and Cubans.⁴

The GMOC sits on land that Cuba was pressured into leasing to the United States as a condition of Cuba’s independence under the 1903 Cuban-American Treaty of Relations.⁵ The United States used the land for many years as a naval station until the 1970s and 1980s saw a rise in Haitian and Cuban asylum seekers fleeing persecution by boat.⁶ Due to rising anti-immigrant sentiment, the Reagan Administration commenced an interdiction program, which sought to intercept and deport migrants before they could reach Florida and access the protections afforded to asylum seekers who made it to the United States.

The interdiction program in the 1980s and 1990s had a particularly grave impact on Haitian refugees who were systematically denied access to protection in the United States.

For example, between 1981 and 1989, only 6 of the 21,461 Haitians interdicted at sea were allowed to request asylum in the United States.⁷

WHAT IS THE PRINCIPLE OF NON-REFOULEMENT?

The principle of non-refoulement is a fundamental principle of international law that stipulates that no refugees be returned to a country where they would face torture, cruel, inhuman, or degrading treatment or punishment, or other irreparable harm. This principle applies to all migrants at all times, irrespective of migration status.

This principle is enshrined in international law, such as the 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees (the U.S. is a party to the latter). It is preserved in U.S. law under the Refugee Act of 1980.⁸

The U.S. interdiction program continued to expand. In the early 1990s, the U.S. government interdicted tens of thousands of Haitians and immediately returned most of them to Haiti.⁹ U.S. government officials have admitted to violating the principle of non-refoulement by forcibly returning many Haitians to Haiti despite passing protection screenings, in some cases lying to returnees by saying that they were being taken to the U.S.¹⁰ Even for those not sent back to Haiti, the United States prevented them from seeking asylum and instead detained them in substandard conditions at Guantánamo.¹¹

Ninaj Raoul, co-founder and Director of Haitian Women for Haitian Refugees, witnessed firsthand the discriminatory and arbitrary nature of processing for Haitian asylum-seekers at Guantánamo during this time. While working as an interpreter for the U.S. government in the 1990s, she saw asylum-seekers forcibly returned to Haiti without a fair assessment of their asylum claim; the U.S. government even claimed to lose case files of asylum-seekers that had been screened for credible fear so they could re-screen them out and wrongfully send them back to danger in Haiti.

Asylum seekers who were not forcibly returned and instead indefinitely detained at Guantánamo faced a multitude of health and human rights violations. The U.S. government subjected these individuals to substandard living conditions, abusive guards, and forced medical procedures, including forcibly administering birth control.¹² The U.S. government also covertly tested Haitian asylum seekers for HIV. Those who were HIV-positive faced additional obstacles related to their protection claims due to "incurable communicable disease" bars set by the government.¹³

In response to these developments, advocates filed legal challenges to the constitutionality of the U.S. government's interdiction policies. A central argument was that the interdiction program violated the Immigration and Nationality Act, the UN Convention Relating to the Status of Refugees, and the equal protection provision of the Fifth Amendment.¹⁴

In 1993, the U.S. Supreme Court upheld the interdiction program, distinguishing between those seeking asylum on U.S. soil and those intercepted at sea. The Court refused to apply asylum protections to migrants interdicted at sea and found that only individuals who have already arrived on United States soil warrant asylum protections.¹⁵ On November 15, 2002, then President George W. Bush implemented Executive Order 13276. This executive order, which remains in effect today, explicitly provides that Guantánamo Bay be utilized as a detention center for migrants intercepted at sea.¹⁶



Photo Credit William C. Reed Collection (COLL/5634) at the Archives Branch, Marine Corps History Division

Decades later, the U.S. government is still intercepting migrant vessels and either repatriating individuals or detaining them at Guantánamo Bay without outside oversight or accountability mechanisms. Moreover, U.S. programs and policies enabling the interdiction of migrants on the high seas have served as a model for Europe and Australia's offshore detention and interdiction policies.¹⁷

ASYLUM SEEKER OR REFUGEE?

The terms “refugee,” “asylum seeker,” and “asylee” are used to describe people who are on the move, who have fled their countries, and who have crossed international borders and are seeking protection from persecution. The terms are often used interchangeably, but there is a legal difference.

Refugee: A refugee is a person outside their country who has requested protection from being forcibly returned to their country, and their refugee claim has been reviewed and approved by a formal body such as the U.S. government or the United Nations High Commissioner for Refugees (UNHCR). In the context of U.S. immigration law, a refugee is someone whose protection claim is adjudicated outside of the U.S. by USCIS and resettled to the U.S. through the U.S. Refugee Admissions Program.

Asylum seeker: An asylum seeker is a migrant outside of their country of origin who is requesting protection from deportation.

Asylee: An asylee, as used in this report, differs from a refugee insofar as an asylee is inside the United States and has had their asylum claim adjudicated and approved by USCIS or an immigration court.



Photo Credit Zudin/iStock

Notably, the U.S. government does not use any of these terms to describe the refugees and asylum seekers it detains at the GMOC, even though they have requested protection from deportation and, in some cases, are being granted such protection. The U.S. government uses the terms “protected migrant”, “unprotected migrant” and “undetermined migrant” when referring to asylum seekers and refugees detained at the GMOC. These are not terms known to be used by the U.S. government in any other context outside the GMOC.

In this report, the IRAP uses the term “refugee” for any person with a claim adjudicated by USCIS at the GMOC and determined to be a “protected migrant,” and “asylum seeker” for people who have not yet had their claim adjudicated by USCIS at the GMOC and are “undetermined migrants.”

LEGEND

- Neighborhoods
- Housing Facilities
- Gas Station/Auto Parts
- Beaches
- Shopping
- Dining
- Morale, Welfare and Recreation (MWR) facilities
- Post Office

Guantanamo Bay U.S. Naval Base

BORDER RD.

RIVER BRIDGE
Gunatánamo River

BORDER RD.

North Gate
Restricted Entry

Warehouse for "Undetermined Migrants"
Migrant Operations Center

AMC Terminal
Leeward Ferry Landing

LEEWARD POINT

Guantánamo Bay

Windward Ferry Landing

U.S. Naval Station

Navy Chapel
Navy College

Navy Exchange
Navy Lodge

LATERAL HAZARD GOLF COURSE

W.T. Sampson High School

U.S. Naval Hospital

Camp Delta



0 1/2 1 MILE

Caribbean Sea

III. Today: Interdiction and Detention at the Migrant Operations Center

The interdiction and detention of asylum seekers and refugees at the GMOC continues to this day, largely out of the public’s attention. This section outlines the U.S. government’s process and the experiences of refugees and asylum seekers taken into custody at sea and indefinitely detained at the GMOC. IRAP interviewed families, individuals, and employees at the GMOC to piece together the otherwise opaque processes the U.S. government uses to curtail asylum seekers attempting to flee to the United States by boat.

“Te hacen sentir que migrar es un delito.”

“They make you feel as though to migrate is a crime.”

— Alberto Corzo

PHASE ONE: INTERDICTION AND FIRST SCREENING ON THE UNITED STATES COAST GUARD BOAT

Asylum seekers fleeing persecution from Cuba, Haiti, and other countries in the Caribbean are often forced to flee by boat, as they have no other way to escape. Many boats asylum seekers board to reach the United States are makeshift, overloaded, and quickly become unsafe. The U.S. Coast Guard often intercepts these vessels, under the Homeland Security Taskforce-Southeast

(HSTF-SE).¹⁸ When it does, the passengers are transferred to a Coast Guard vessel.

International maritime law requires the U.S. Coast Guard to transfer rescued persons to a “place of safety,” where they are no longer in danger and their basic human needs are met.¹⁹ Pursuant to this requirement, the U.S. Coast Guard is responsible for identifying passengers who have a fear of persecution and transferring them to a place of safety for further humanitarian processing.²⁰ If a passenger manifests a fear of returning to their country of origin, the Coast Guard is required to alert USCIS so they can conduct some version of an asylum screening. Virtually no information on this process is publicly available, but a former USCIS officer describes it as a “quasi-credible fear interview,” but “with a higher unknown standard.” These interviews are conducted physically on a Coast Guard boat or via satellite telephone.



WHAT IS A CREDIBLE FEAR INTERVIEW?

Historically, a credible fear interview (CFI) happens after an individual who has reached U.S. territory expresses a fear of returning to their country of origin. Often, the interview would have been conducted by USCIS at ports of entry and immigration detention centers. During a CFI, a U.S. immigration official asks an asylum seeker questions to determine if the asylum seeker could be successful on their asylum case. This interview is the first step in trying to apply for asylum in the United States.

Typically, if the U.S. government determines someone has a credible fear of persecution, they are allowed to pursue their asylum case in the

United States. If the U.S. official decides that the person does not have a credible fear, then the person may be removed from the United States. When made at or within U.S. borders, these credible fear determinations may be reviewable by an immigration judge.

In contrast to a CFI, the screenings that U.S. officials conduct aboard U.S. Coast Guard vessels and at the GMOC to evaluate people interdicted at sea for a fear of returning to their country of origin apply an unknown legal standard and are not reviewable.

Alberto Corzo and Martha Liset Sánchez encountered this process in December 2022 when they fled their home in Cuba. Alberto and Martha are journalists who advocated for press freedom in their country for years, traveling to the United States in 2017 and 2018 to collaborate with fellow journalists and returning home each time to continue pushing for transparency and accountability in the Cuban government. In 2022, Alberto was brutally attacked by the Cuban authorities during a reporting assignment and suffered a broken clavicle.²¹ Alberto and Martha's 12-year-old twins were also assaulted by Cuban government officials and one child was subsequently diagnosed with Obsessive Compulsive Disorder (OCD). By the end of 2022,

the Cuban government passed a law that would likely send Alberto and Martha to prison for over a decade for receiving foreign financing for their journalism.²² The law would also have stripped them of their parental rights for teaching their children what the Cuban government considers "bad values."

Alberto and Martha knew the dangers of leaving by sea, but the Cuban government would not issue passports to their children, and their names were on the government's list of people prohibited from departing the country. They boarded a boat under the cover of night with their twins, their eldest son, and their son's wife, taking with them only a few necessities.

Alberto felt relieved when, after less than a day, the U.S. Coast Guard found their boat — at least they would be alive and safe.

But from the moment the Corzos encountered the Coast Guard, they felt unwelcome by the very country they thought invited free speech and advocacy. Even after the family requested political asylum and passed a screening regarding their eligibility, the interviewing official told them that they could either return to Cuba or be taken to Guantánamo for up to two years and await resettlement in any country other than the United States. Alberto and Martha faced an impasse: if they returned to Cuba, they would be imprisoned, and their children would be taken away from them; if they remained in U.S. custody, they faced an uncertain refugee resettlement process at Guantánamo. They asked not to be repatriated.

The family remained at sea for 12 days, where they were transferred from one Coast Guard ship to another in prison jumpsuits and forced to sleep on the deck of each boat. They were not allowed to shower. They could not brush their teeth. The few belongings that they had were taken away from them — they would never see those belongings again.

The family's experience is consistent with the experiences of other detainees IRAP interviewed as well as other migrants interdicted by the Coast Guard.²³ Asylum seekers spent up to three or more weeks on Coast Guard vessels while DHS decided whether to transfer them



Photo Credit Sean Shot/iStock

to the GMOC or repatriate them. If USCIS determines that an asylum seeker does not have a sufficient fear of persecution, under an unknown standard, then the U.S. Coast Guard arranges for their repatriation. Former U.S. officials explained that when Cubans are repatriated, they are blindfolded, put in a closed van, and driven to the North Gate of Guantánamo where they are met by Cuban officials. The person is then transferred to the custody of the Cuban government. If USCIS determines that an asylum seeker has a sufficient fear of persecution, they are eventually transferred to the GMOC for another round of screening.







PHASE TWO: THE SECOND SCREENING AND ICE CUSTODY AT THE MIGRANT OPERATIONS CENTER

Once asylum seekers arrive at the GMOC, they are blindfolded, shackled, and transferred to a warehouse for further processing.²⁴ At this point, even though the asylum seekers have

passed an initial screening regarding their fear of persecution in their country of origin, the U.S. government labels their status as “undetermined” rather than treating them as warranting humanitarian protection. Statements from a former USCIS official,

corroborated by U.S. government contracts, confirm that people are held in DHS custody for a few weeks to several months in isolation before undergoing another USCIS interview to further assess their fear of return.²⁵

OVERVIEW OF ACTORS

| | | |
|--|--|--|
|  | <p>Department of Defense / Navy (DOD)</p> | <p>Make available housing for migrants interdicted or intercepted in the Caribbean region and taken into their custody. Provide access to any facilities at Guantanamo Bay Naval Base that are available and do not interfere with base operations. Provide perimeter security to Security of the Migrant Operations Center.</p> |
|  | <p>U.S. Coast Guard (USCG)</p> | <p>Encounter vessels at sea in distress and transfer migrants to U.S. Coast Guard boat. Identify manifestation of fear and alert USCIS to conduct a screening on the boat. The U.S. Coast Guard is the only wing of the military under the Department of Homeland Security</p> |
|  <p>U.S. Citizenship and Immigration Services</p> | <p>Department of Homeland Security - United States Citizenship and Immigration Services (DHS-USCIS)</p> | <p>Conduct first screening for fear of persecution on the Coast Guard boat. Conduct second screening at the GMOC.</p> |
|  <p>U.S. Immigration and Customs Enforcement</p> | <p>Department of Homeland Security - Immigration and Customs Enforcement (DHS-ICE)</p> | <p>Transfer of asylum seekers from Coast Guard boat to the GMOC. Responsible for detention of “unprotected” and “undetermined” migrants. Those who are determined “protected” by USCIS are then transferred into the custody of the Department of State and the International Organization for Migration.</p> |
|  | <p>Department of State (DOS)</p> | <p>Care and custody of all refugees detained at the GMOC.</p> |
|  | <p>International Organization for Migration (IOM)</p> | <p>DOS has authorized the International Organization for Migration to act on behalf of DOS in the care, custody and welfare of “protected” migrants.</p> |

During the second interview, USCIS determines whether to afford an asylum seeker “protected” or “non-protected” status instead of the more customary asylum or refugee status.²⁶ In practice, this means a USCIS officer assesses the individual’s fear of return to their country of origin.²⁷ How USCIS officers make this determination is unknown, however, as there is no definition or legal standard for “protected migrants” in U.S. immigration law. If the USCIS officer concludes that the person warrants “non-protected status”, the person is repatriated.²⁸ IRAP has been unable to uncover any information about access to an appeal or review process if someone does not pass this screening.

If USCIS instead deems an individual “protected,” they are transferred out of DHS custody and into the custody of DOS to a separate facility at the GMOC.²⁹ Unlike in past decades when some GMOC asylum seekers were allowed to enter the U.S. to pursue their asylum claims, under current government policy, people detained at the GMOC are arbitrarily precluded from being resettled to the United States (even though USCIS has determined they have a fear of persecution).³⁰ Instead, the United States has a little-known policy of trying to find a third country that will receive the asylum seeker.

Alberto and Martha had to navigate this opaque and harrowing process with their children. When they finally docked in Guantánamo, Alberto and Martha saw officers blindfold and shackle a Haitian man who had been on the boat with



Photo Credit Alxpin/iStock

them. An officer explained that this was simply protocol. Only Martha’s pleas spared her children from the same treatment.

Once on land, DHS officials forced everyone into a van and told them to keep their heads down and eyes shut. The officials took the family for medical testing before leading Alberto, Martha, and their 12-year-old twins to a room where they would stay while USCIS determined whether they should be considered “protected migrants.” Their eldest son and his wife were taken to a separate room. The DHS officials ordered the family not to open windows or go into halls.

The family received little information on how long they would be in isolation or what would happen next. On day four, a DHS guard allowed Martha a five-minute call to let her family in Cuba know that she was alive. At another point, Alberto and Martha saw through their window that their eldest son was being taken to the hospital, but the guards refused to let them see or talk to him.



Photo Credit Autumn Sky Photography/Shutterstock

DHS kept Alberto, Martha, and the twins in isolation for nine days; their eldest son and his wife were isolated for 14 days. After another interview with USCIS, the whole family was finally determined to be “protected migrants,” which meant that they could now move around the GMOC building and its vicinity during daylight hours — but they faced an indefinite wait for resettlement in oppressive conditions.

“Incluso las personas condenadas o acusadas de delitos y detenidas en prisiones de máxima seguridad tienen y merecen derechos.”

“Even people convicted or accused of crimes and detained in maximum security prison have and deserve rights.”

– Alberto Corzo

PHASE THREE: INDEFINITE DETENTION AND ABUSES AT THE GMOC

Once USCIS has determined that an asylum seeker merits “protected” status, responsibility for custody and care is transferred from DHS to DOS.³¹ DOS has designated IOM to manage its responsibilities at the military base.³² With the help of private security contractors, IOM is responsible for the care of refugees, who are detained at the GMOC under strict prison-like conditions.³³ At the GMOC, IOM liaises between detained refugees and other U.S. government officials working at the Naval Station to coordinate transportation, restrict and monitor phone calls, and determine access to medical care, education services, housing, and case file updates.

WHAT IS THE INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM)?

“Established in 1951, IOM is the leading intergovernmental organization in the field of migration and works closely with governmental, intergovernmental and non-governmental partners. . . . IOM works to help ensure the orderly and humane management of migration to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, including refugees and internally displaced people.”³⁴

IOM is an intergovernmental organization funded by nation-states. In 2022, IOM received \$942 million in funding from the U.S. government, by far IOM’s largest funder.³⁵ IOM joined the “U.N. family in 2016, but only as a related organization”, which means IOM is

not subject to the full complement of United Nations oversight mechanisms.³⁶ While IOM does not have the resettlement mandate of UNHCR, in the context of the U.S. Refugee Admissions Program, IOM assists the U.S. government with overseas refugee processing, medical checks, cultural orientation, and facilitating the travel of refugees to their final destination in the United States.³⁷ However, IOM also has been criticized for enabling sovereign states’ efforts to externalize their borders, operate offshore detention sites, and repatriate asylum seekers with little oversight or accountability.³⁸ Critics have accused IOM of “bluwashing” or hiding under humanitarian protections to do the bidding of contracting governments.³⁹ This report urges IOM to cease its global migrant detention operations (it did once).

The main detention facility at the GMOC houses refugees awaiting third-country resettlement. It is surrounded by a fence, much like a prison. It is guarded by private prison guards who are trained to oversee prisons. “Security was overwhelming,” and refugees “are treated as [if] they are [...] in prison, absolutely,” according to one person who worked at the facility.

Refugees’ lives at the GMOC are governed by the rules in a manual known as “Instruction 5500,”

which limits where refugees can go and what they can communicate to the outside world.⁴⁰ The manual prohibits refugees from accessing any communication devices or methods except one 30-minute monitored telephone call weekly.⁴¹ The rules further ban communicating “[i]nformation that misrepresents or exaggerates personal or medical treatment”⁴² — evidently to ensure that the outside world cannot hear about their mistreatment inside the facility.

WHAT IS INSTRUCTION 5500?

Instruction 5500 is a manual that lays out the regulations and policies concerning migrants detained at the GMOC by DHS and IOM. The manual identifies the agencies responsible and the rules required in providing custody, care, and security for migrants in need of protection while awaiting evaluation and/or resettlement. IOM and private prison contractors at the GMOC implement it. Instruction 5500 sets forth the arbitrary policy that refugees will not be resettled to the United States. It also decrees that refugees detained at the GMOC are not detainees and are free to return home at any time.⁴⁴ The fiction that a “protected migrant” is free to return home at any time is repeated throughout U.S. government statements on the GMOC, including in government contract records.⁴⁵

As described in IRAP’s interviews with people who spent time in the GMOC in 2022 and 2023, the IOM-managed building where protected refugees await resettlement is a two-story structure — separated from the main base, where critical infrastructure such as the hospital are located. Interviewees described signs of deterioration and dilapidation: toilets spewing sewage when someone in another room flushed their toilet, a plumbing problem known in notorious prisons as “ping-pong toilets”;⁴⁶ showers overflowing; fungi growing on ceilings; and rats running around in the room. These conditions flout the minimum

standards for agencies detaining migrants inside the United States, including limits on time in detention, health and safety requirements, and standards on detention of children and families.⁴⁷

Several refugees IRAP interviewed after their incarceration at the GMOC remained dismayed by their mistreatment by IOM and the guards, especially IOM’s insistence that, despite their protected status, they had no rights and could be sent home or return home at any time. Yeilis Torres Cruz, who was held at the GMOC in 2022 for approximately seven months, found the physical conditions of the GMOC tolerable only when compared to the Cuban prison, where she spent ten months in prison due to her activism. Still, the abusive attitudes of people working there

were not: she noted that the mistreatment was similar to “what we were escaping from in the first place in our country.” During Alberto and Martha’s incarceration at the GMOC, the guards suspended phone privileges for all refugees

“The United States has clearly defined and published standards for its detention facilities to protect the health and dignity of migrants. While they may be inadequate and poorly implemented, these standards should apply to all migrants under U.S. government auspices, including those in Guantánamo Bay.”

– Dr. Paul B. Spiegel

for 15 days because one refugee complained on the phone of mistreatment. Because the refugees feared being punished for breaking the rules again, they lied to their families that the telephone lines were down during the punishment period.

Instruction 5500 does not accommodate unmonitored attorney-client calls: when IRAP represented Jasiel, Yoanne and their children during their incarceration at the GMOC, it took IRAP several months of advocacy to secure one 30-minute, unmonitored call with them. Others were threatened to have phone privileges revoked if they tried to contact a lawyer or a journalist.

IOM and the private prison contractors at GMOC mete out arbitrary punishments for perceived violations of Instruction 5500, including collective punishments. For example:

- Several asylum seekers reported that the entire facility would often go on “lockdown” for days, sometimes over a week, whenever a refugee was found with a phone. All refugees, including young children, were locked in their rooms during this period, even for meals.
- A guard once told Martha that Cubans should go back to their country because they were invading the United States. When Martha reported the guard’s xenophobic comment, the IOM officers told her that to sanction the guards they would also have to sanction Martha with revocation of phone privileges.

- Refugees at the GMOC noticed and reported that water from the faucets was coming out yellow. IOM officers nonetheless told the refugees that the water was potable and there was not enough money to purchase drinking water. When a refugee asked the IOM officer to drink a glass of water from the sink as a sign of good faith, the officer refused and punished the refugee with one week of isolation in his room. Only after several refugees were taken to the hospital with vomiting and diarrhea from drinking the water did IOM agree to provide them with drinkable water.
- The GMOC also maintains solitary confinement units, or “Special Housing Units.” Instruction 5500 allows the use of solitary confinement at the discretion of those running the facility and associated government agencies without setting forth any process or limitations on time.
- IOM also appears to be able to change the rules in Instruction 5500 at their discretion. When Alberto and Martha asked to work, as permitted by the copy of Instruction 5500 that all refugees receive when detained at the GMOC, they were told that the rules had changed and that work was no longer allowed.

“Nuestros niños perdieron un año de los estudios.”

“Our children lost a whole year of schooling.”

– Martha Liset Sánchez

The conditions at the GMOC are not suitable for incarcerating adults, and they are especially not so for children. Jasiel, Yoanne, and their children were detained at the GMOC for over a year, and the children did not receive any education for the first six months. Alberto and Martha’s 12-year-old children took informal English classes, but the availability of education appeared to depend on the schedule of spouses of Navy officers from NSGB who were willing to provide the service. Other than the sporadic English classes, there was no programming or opportunities for socialization to keep the children occupied.

“The impact of prolonged detention on children is substantial and long-lasting. Research has shown that detention can both create and exacerbate mental health conditions among children, who may be driven to self-harm. In addition, detention serves to undermine the capacity of parents to care for their children effectively, damaging the parent-child attachment bond.”

– C. Nicholas Cuneo, MD, MPH

Months of incarcerating children under such conditions take their toll. Martha could not obtain pediatric psychiatric help for her son with OCD, who was becoming depressed in isolation. When Jasiel and Yoanne finally succeeded in having a Navy doctor see their children, the doctor offered a blunt opinion in a formal letter obtained by IRAP:

To Whom It May Concern:

Pablo is a patient under my care. He is a 12-year-old male who has been diagnosed with multiple health conditions that exceed the treatment capabilities at Naval Hospital Guantanamo Bay.

- 1) Post-traumatic stress disorder - this patient is in need of a pediatric-trained psychologist who can address trauma and a child and adolescent psychiatrist who can manage behavioral health medication therapy. He needs to be in a supportive, stimulating daily school environment for educational and psychosocial development. None of these is available to him on Guantánamo Bay.
- 2) Inguinal hernia - this patient is in need of surgery from a pediatric surgeon to repair his hernia before it can lead to complications. The surgeon available in Guantanamo Bay is not fellowship-trained in pediatrics.

It is my medical opinion that these conditions will continue to get worse without proper treatment and this child is at future risk over the next 2-3 months for self-harm, suicide, and/or requiring emergency surgery.

The doctor issued a similarly stark opinion for Pablo's sister María, who was diagnosed with severe adjustment disorder with depressed mood. It took the efforts of a Navy doctor and threats of litigation from IRAP to the U.S. government to finally release the family from the GMOC for urgent humanitarian reasons.

"We were stuck in limbo."

— Jasiel and Yoanne

The refugees detained at the GMOC received little information about why they were there, how long

they would be there, or what would happen to them next. This uncertainty weighed on them. The rules in Instruction 5500 make clear that the refugees at GMOC will be incarcerated there until a country — other than the United States — agrees to resettle the refugees.⁴⁸ This means that even refugees with families and other support in the United States must wait indefinitely until a third country agrees to accept them for refugee resettlement.

"The emotional harm caused by unstable immigration status is hard to overstate and has been directly correlated to Post-Traumatic Stress Disorder symptom burden. In children, unstable immigration status has been implicated in impaired development, affecting far-reaching domains such as identity formation, self-efficacy, and peer relations."

— C. Nicholas Cuneo, MD, MPH

Many refugees incarcerated at the GMOC ask for an attorney, hoping to obtain answers or relief from the conditions they suffer. But they are denied such access and must continue to await their fate at the hands of the U.S. government, cut off from the rest of the world.

The situation forces some refugees to take desperate measures. Yeilis attempted suicide and was medically evacuated. She was allowed to stay in the United States following her medical evacuation — an exception to the rule — but she spent months in ICE immigration detention before she was allowed to reunite with her husband in the United States.



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IV. Ongoing Human Rights Violations at the GMOC

The U.S. government, IOM, and private prison contractors are offshoring human rights abuses at the GMOC, unchecked by legal protections. In addition to the lack of access to basic human necessities, appropriate medical care, education, and potable water, refugees detained at the GMOC lack access to basic rights that any asylum seeker navigating the U.S. immigration system should have.

- **Detention conditions at the GMOC are inhumane.** When the U.S. government engages in incarceration, it must, at minimum, provide “humane conditions of confinement” and “take reasonable measures to guarantee the safety of the inmates.”⁴⁹ Conditions at the GMOC are inhumane: mold, sewage, and lack of potable water deprive refugees of their basic right to sanitation and hygiene.⁵⁰ The GMOC facility is too dilapidated to house people, particularly for prolonged periods, and “needs to be completely torn down,” according to a person who worked there.
- **The GMOC does not meet minimum U.S. safety standards for detention facilities.** The U.S. government is responsible for the safety of the people it confines, and it implements its obligations in other detention settings in part by placing people in housing units based on a risk assessment at admission.⁵¹ But the GMOC’s layout means that all refugees are held in one large building without separation based on gender, family makeup, age, or other risk factors. The GMOC



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facility is not set up to guarantee safety for refugees, particularly refugee children.

- **The U.S. government does not provide adequate medical care to refugees at the GMOC.** The U.S. government is responsible for ensuring that the people it incarcerates have access to adequate medical and mental health care.⁵² Guantánamo Bay has a hospital that serves the territory’s workers for routine visits, but even they must be flown off the island for more complex treatments. As for medical and mental health care for children, Pablo and María’s Navy doctor stated it succinctly: Guantánamo does not have pediatric psychiatrists or surgeons.⁵³ Medical and mental health care available for children incarcerated at the GMOC is insufficient. As a result, children and adults who have fled danger in their own country only to be confined indefinitely at the GMOC have

needlessly suffered from a lack of medical and mental health care. The U.S. government should not be confining children or adults with medical problems in Guantánamo.

- **The U.S. government denies GMOC detainees the right to speak up about inhumane conditions, file grievances, and access courts.** U.S. laws prohibit the government from running secret prisons: people who are incarcerated have the right to speak up about inhumane conditions, grieve their conditions, communicate with attorneys in a confidential manner, and access the courts for relief.⁵⁴ The policies and practices at the GMOC, by contrast, are designed to stifle information about the mistreatment of refugees. Instruction 5500's rules prohibiting "information that misrepresents or exaggerates personal or medical treatment" mimics a prison rule that the U.S. Supreme Court struck down as unconstitutional in 1974,⁵⁵ and appears to exist solely for the purpose of censorship. Instruction 5500 also does not provide for confidential attorney access, as evidenced by IRAP's months-long advocacy before having one 30-minute unmonitored call with its client.⁵⁶
- **The U.S. government imprisons children at the GMOC in ways that are contrary to U.S. law.** Children belong in schools, not prisons: The U.S. government's standards for the incarceration of families and children recognize the importance of a "family-friendly environment" with "organized and structured programs."⁵⁷ The standards also require

facilities to provide eligible minors with at least one hour of instruction in each core subject by staff certified to teach in the subject area.⁵⁸ By contrast, children at the GMOC live under the supervision of guards who seemingly do not have appropriate training.⁵⁹ The GMOC also does not consistently offer programming or formal education because it relies chiefly on the availability of spouses of government employees stationed at Guantánamo to provide those services. The U.S. government must stop incarcerating children in an isolated location where it cannot provide the services that they need.

- **The U.S. government outsources offshore detention of refugees to IOM and private prison contractors at GMOC who put children and families at risk and repeatedly violate their rights.**

IOM acts under the direction of the U.S. government in implementing rules and regulations at the GMOC and determining detainees' access to education, legal representation, basic necessities, and medical care. As experienced by IRAP's clients and many others detained at the GMOC, IOM does not meet the basic standards of incarceration under U.S. law.

The GMOC relies on private security contractors to run and maintain detention facilities.⁶⁰ Human rights abuses within the immigration detention system disproportionately occur in private prisons.⁶¹

Private prison contractors have repeatedly been documented as placing detainees in isolation, overcrowding prisons, limiting access to medical treatment, and violating detainees' civil rights.⁶² Private prisons have no place in the detention of asylum seekers and refugees.

- **The U.S. government arbitrarily separates families.** Family unification is a cornerstone of U.S. immigration law that is inaccessible to refugees detained at the GMOC for no clear reason other than migration deterrence. Many of the refugees detained in the GMOC have family members who are U.S. citizens and lawful permanent residents in the United States they are trying to reunite with, but Instruction 5500 explicitly states that refugees detained in the GMOC do not have access to resettlement in the United States.⁶³ The GMOC operation forces refugees to resettle in third countries away from parents, siblings, and other close relatives, even though the U.S. government has the express discretion to parole people into the United States.⁶⁴
- **U.S. interdiction policy contravenes asylum seekers' right to a "place of safety" under international maritime law.** When the U.S. government interdicts refugees at sea, it is required to conform to its international maritime obligations of providing a "place of safety" within a reasonable time, where "the survivors' safety of life is no longer threatened and where their basic human needs (such as food, shelter and medical needs) can be met [and] . . . from which transportation arrangements can be made for the survivors'



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next or final destination."⁶⁵ As outlined above, the GMOC does not meet the standards of a "place of safety."

- **Returning asylum seekers to the country from which they are fleeing persecution violates the principle of non-refoulement.** Interdiction at sea has been widely criticized, especially in the Mediterranean, where countries employ "push-backs" to return people seeking safety without conducting individualized protection assessments.⁶⁶ UNHCR has called for state actors to stop returning people to their countries without assessing whether they may require international protection and warned that the failure to do so could amount to refoulement in violation of international law.⁶⁷

Few asylum seekers interdicted in the Caribbean have access to protection from forced return. Haitians historically and currently have even more limited access. At one point, there were

only Spanish-speaking U.S. Coast Guard and USCIS officers responsible for (1) deciphering whether someone initially manifested fear; and (2) conducting the subsequent fear screening interviews. A former USCIS officer remarked that it was “very suspicious how few Haitian people we interviewed.” While current policies are unknown, the former officer stated that there was a time when all Cubans were automatically interviewed. The same was not true for Haitians or other nationalities.

The Coast Guard reported that in fiscal year 2022, they intercepted 7,175 Haitians at sea.⁶⁸

However, they do not publish numbers of asylum seekers screened for protection, nor how many people are immediately returned to Haiti. It is likely that Haitians attempting to flee persecution by boat have been unduly returned without due process protection afforded to asylum seekers in the United States or access to the minimal protections afforded to some interdicted at sea.

- **USCIS provides no procedural protections to refugees before determining whether to return them to the country from which they fled.** Once someone is allowed to be interviewed by a USCIS officer, USCIS makes two critical adjudications that will determine whether they are returned to the country from which they fled. First is the “quasi-credible fear interview,” as described by a former government officer, which takes place on a Coast Guard boat. The U.S. government provides no information about what exactly is asked and how the officer makes this

adjudication, and there is no mechanism for review or appeal of these decisions — people are simply returned to the country from which they fled. This is in contrast to the rights historically afforded to people in the United States, who are screened pursuant to known standards and procedures and can request that an immigration judge review a negative asylum screening determination.⁶⁹

Once an asylum seeker is transferred to the GMOC, they are forced to wait in isolation for an undetermined and often lengthy period for a second interview with another USCIS officer who will determine whether they have sufficient fear of persecution to merit further detention while another country is found to receive the person.

On United States soil, extensive laws, procedures, and rules govern adjudication and review of asylum decisions.⁷⁰ When a refugee overseas is considered for resettlement through USRAP, USCIS has guidelines and training on how to conduct interviews and make decisions.⁷⁰ In the GMOC, where asylum and U.S. immigration deterrence policy is externalized, there is no known guidance about how asylum and refugee decisions are made or what standards are being applied. There is no basis for the arbitrary decision to deny refugee protection in the United States and instead pursue third-country resettlement. There is no access to attorneys, appeal procedures, or due process.

V. Recommendations

The GMOC has been allowed to operate in the shadows for too long, subjecting refugees to inhumane conditions that violate human rights standards. IRAP calls on the U.S. government to immediately shut down the use of the GMOC as a detention center for migrants, asylum seekers, and refugees, parole those who are currently there or have been detained there in recent years into the United States, and investigate DHS, DOS, IOM, and the private contractors' management of the facility. IOM should also end its global migrant detention operations.

1 The U.S. government should shut down the GMOC and discontinue its use as a long-term detention center for refugees.

The experiences of the refugees incarcerated at GMOC speak loudly and clearly: the GMOC must be shut down immediately as a detention center for refugees. The GMOC is not appropriate for refugees or any person.

Many of the problems with the GMOC are inherent in operating an offshore incarceration site away from public scrutiny and away from suitable resources, including medical care, mental health care, and programming. They are also irremediable, given the state of the GMOC facilities. There is no remedy short of closing down the GMOC that could address the issues.

2 DHS should provide the same due process protections to asylum seekers interdicted at sea as historically afforded to people encountered on land.

Asylum seekers encountered at sea must be screened for a credible fear of persecution by DHS: these screenings should be conducted in accordance with established standards and procedures and data on outcomes must be made available. Currently, there is no publicly known standard for protection screenings for interdicted migrants, even though such standards exist in U.S. immigration law and related agency documents.

DHS must administer credible fear interviews, employing the same standards historically used for such interviews when conducted within the U.S. or at its borders and parole those who pass into the United States to pursue their asylum claim. Asylum seekers who receive negative fear determinations should be afforded the opportunity to challenge such denials consistent with review procedures within the United States.

Relatedly, the U.S. Coast Guard, which regularly publishes numbers of migrants interdicted in the Caribbean, should also publish data on who receives a protection screening interview, who is determined to be protected, and who is returned to their country of origin.

3 DHS should parole all refugees currently incarcerated at the GMOC into the United States and provide the same option to those who were incarcerated there in recent years.

In conjunction with shutting down the GMOC, the U.S. government should immediately resettle into the United States all protected refugees

currently incarcerated at GMOC into the United States; and parole all asylum seekers into the United States so that they can apply for asylum. Historically, had these asylum seekers reached the United States, they would have been afforded the right to apply for asylum under U.S. law. It is arbitrary and punitive for the government to refuse the same opportunity to people they encounter at sea who need assistance.

The U.S. government should also offer the resettlement option to refugees who have been incarcerated at the GMOC in recent years but were ultimately resettled to third countries. Many of these refugees, such as the refugees interviewed for this report, have families in the United States and would have taken the opportunity to resettle there if they were given an option.

4 Congress and agency oversight bodies should investigate rampant human rights abuses at the GMOC.

Finally, along with shutting down the GMOC, Congress should open an investigation into the operations of the GMOC. Agency oversight bodies including the DHS Office of the Immigration Detention Ombudsman (OIDO), DOS Office of the Inspector General (OIG), and DHS Office for Civil Rights and Civil Liberties (CRCL), should investigate the management of the GMOC. Interviewees talked to IRAP about hostile treatment, lack of funds for essential services, and staged rooms set up for the sole purpose of impressing any entities that stopped by to evaluate the conditions. DHS and DOS are

bound by standards governing all detention facilities and these standards should apply equally, including to those detained at the GMOC. There is currently an open investigation by DHS CRCL regarding DHS actions during interdiction, screenings, and detention of asylum seekers and refugees, but there is a lack of public information available about the investigation or outcome.⁷¹ These investigations must be transparent.

5 IOM should cease involvement with the GMOC and end its migrant detention operations worldwide

IOM can and does play an important role in the humane management of migration. However, as evidenced by what was uncovered at GMOC, IOM's global migrant detention operations run contrary to its principles. IOM should not be operating or overseeing migrant detention centers as part of its work anywhere in the world. IOM should immediately cease involvement in the GMOC and internally investigate the actions and abuses of its staff at the facility. Resources and energy spent towards migrant detention should be refocused to help IOM tackle the most pressing human mobility challenges of the day with a more humane lens.

Appendices

Endnotes

1. Pseudonyms used to protect the children's identity.
2. See U.S. Immigr. & Customs Enf't, F2021056079, Contract Forecast for Migrant Operations Center (MOC) (2023) (soliciting bids for up to \$50 million for security services); U.S. Immigr. & Customs Enf't, 70CDCCR21R00000011, Contract Opportunity for Housing Officers for Migrants and Other Vulnerable Populations at the Migrant Operations Center (MOC) at Guantánamo Bay, Cuba (2021).
3. See Gerald L. Neuman, *Closing the Guantanamo Loophole*, 50 Loy. L. Rev. 1, 3 (2004); Johan Steyn, *Guantanamo Bay: The Legal Black Hole*, 53 Int'l & Compar. L.Q. 1, 1 (2004); Gerald L. Neuman, *Anomalous Zones*, 48 Stan. L. Rev. 1197, 1201, 1228-33 (1996).
4. See *Haitians and GTMO: Who is a Refugee? What Makes a Refugee*, The Guantanamo Public Memory Project, <https://gitmomemory.org/timeline/haitians-and-gtmo/> (last visited Nov. 6, 2023); *Cuban Balseros at GTMO: Safe Haven or Prison Camp?*, The Guantanamo Public Memory Project, <https://gitmomemory.org/timeline/cuban-balseros/> (last visited Nov. 6, 2023); Jeffrey S. Kahn, *Guantánamo's Other History*, Boston Review (Oct. 15, 2021), <https://www.bostonreview.net/articles/guantanamos-other-history/>.
5. See Cuban-American Treaty, Cuba-U.S., art. I, Feb. 16-23, 1903, T.S. No. 418.
6. 1980 - Mariel Boatlift - U. S. Coast Guard Operations During the 1980 Cuban Exodus, U.S. Coast Guard Aviation History, <https://cgaviationhistory.org/1980-mariel-boatlift-u-s-coast-guard-operations-during-the-1980-cuban-exodus/> (last visited on Nov. 6, 2023); Kahn, *supra* note 4.
7. Kahn, *supra* note 4.
8. See 1967 Protocol Relating to the Status of Refugees, art. 1, Jan. 31, 1967, 19 U.S.T. 6223 (adopting Article 33 of the 1951 Convention Relating to the Status of Refugees); *Immigr. & Naturalization Serv. v. Cardoza-Fonseca*, 480 U.S. 421, 436-41 (1987).
9. *Haitians and GTMO: Who is a Refugee? What Makes a Refugee*, *supra* note 4.
10. Gov't Accountability Off., GAO/T-NSIAD-92-25, Testimony of Harold J. Johnson, Director, Foreign Economic Assistance Issues, National Security and International Affairs Division before the Subcommittee on Legislation and National Security, Committee on Government Operations, House of Representatives re: U.S. Processing of Haitian Asylum Seekers, 2 (Apr. 2, 1992).
11. *Haitians and GTMO: Who is a Refugee? What Makes a Refugee*, *supra* note 4.
12. A. Naomi Paik, *The "Visible Scapegoats" of US Imperialism: HIV Positive Haitian Refugees and Carceral Quarantine at Guantanamo Bay 7-8* (Yale Univ. Initiative on Labor & Culture Working Grp. on Globalization & Culture, Paper No. 4, 2006).
13. *Haitian Ctrs. Council v. Sale*, 823 F. Supp. 1028, 1035-36 (E.D.N.Y. 1993). ("[A]ny person 'screened in' as a possible refugee who has been determined to have a communicable disease that is not curable should be given an interview to determine whether he or she is a refugee within the definition of INA § 101(a) (42)").
14. See, e.g., *Haitian Ctrs. Council v. McNary*, 969 F.2d 1326, 1332 (2d Cir. 1992), vacated, *Sale v. Haitian Ctrs. Council*, 509 U.S. 918 (1993); *Haitian Ctrs. Council v. McNary*, 969 F.2d 1350, 1353 (2d Cir. 1992), vacated, *Sale v. Haitian Ctrs. Council*, 509 U.S. 918 (1993).
15. *Sale*, 509 U.S. at 170-187.
16. Delegation of Responsibilities Concerning Undocumented Aliens Interdicted or Intercepted in the Caribbean Region, 67 Fed. Reg. 69,985, 69,985 (2002) (hereinafter "Exec. Order 13276").
17. See Ashley Westerman, *Australia Brings Its Last Refugee on Pacific Island of Nauru to its Mainland*, NPR (June 26, 2023, 6:00 AM), <https://www.npr.org/2023/06/26/1184269979/australia-last-refugee-on-nauru>; *Which Other Countries Send Asylum Seekers Overseas?*, BBC News (Apr. 14, 2022), <https://www.bbc.com/news/uk-61106231>; Jeffrey Kahn, *The Caribbean Roots of European Maritime Interdiction*, Society for Cultural Anthropology (June 28, 2016), <https://culanth.org/fieldsights/the-caribbean-roots-of-european-maritime-interdiction>.
18. See Press Release, U.S. Coast Guard, Homeland Security Task Force – Southeast Sustains Enhanced Migration Enforcement Posture (Apr. 28, 2023), <https://www.news.uscg.mil/Press-Releases/Article/3377751/homeland-security-task-force-southeast-sustains-enhanced-migration-enforcement/> ("HSTF-SE serves as the DHS lead for operational and tactical planning, command and control, and as a standing organization to deter, mitigate and respond to maritime mass migration in the Caribbean Sea and the Straits of Florida.").
19. See International Maritime Organization Res. MSC.167(78) at 4, 8, (May 20, 2004); Press Release, U.N. High Comm'r for Refugees, Joint Statement on Place of Safety (May 2022), <https://reliefweb.int/report/world/joint-statement-place-safety>; U.N. High Comm'r for Refugees, Legal Considerations on the Roles and Responsibilities of States in Relation to Rescue at Sea, Non-refoulement, and Access to Asylum, § 2.1(Dec. 1, 2022), <https://www.refworld.org/docid/6389bfc84.html>.

20. Legal Considerations on the Roles and Responsibilities of States in Relation to Rescue at Sea, Non-refoulement, and Access to Asylum, *supra* note 19, § 3.2.
21. Graham Keeley, Cuban Journalist Followed and Beaten, VOA (April 14, 2022, 11:39 AM), <https://www.voanews.com/a/cuban-journalist-followed-and-beaten/6529370.html>; Alert, Comm. to Protect Journalists, Cuban Independent Journalist Alberto Corzo Assaulted After Encounter with State Security Agents (Apr. 8, 2022), <https://cpj.org/2022/04/cuban-independent-journalist-alberto-corzo-assaulted-after-encounter-with-state-security-agents/>.
22. See Dave Sherwood, *Cuban Lawmakers Pass New Penal Code Critiqued by Rights, Media Groups*, Reuters (May 15, 2022, 9:08 PM), <https://www.reuters.com/world/americas/cuban-lawmakers-pass-new-penal-code-critiqued-by-rights-media-groups-2022-05-16/>.
23. See, e.g., Complaint ¶ 3, *Weir v. United States*, No. 19-cv-01708 (D.D.C. June 12, 2019) (“For all but one week of their detention, the Coast Guard kept the men outdoors on the decks of those ships and exposed to the elements at all times, even as they sailed into a hurricane. The men’s skin burned and blistered in the sun. They were drenched and chilled by rain and sea water. The Coast Guard deprived the men of adequate bedding, food and water, as well as washing and sanitation facilities.”).
24. Immigr. & Customs Enf’t, Draft Statement of Objectives for the Migrant Operations Center at Naval Station Guantanamo Bay, § C.5.1.10 (hereinafter “Draft SOO for MOC”).
25. See Contract Between Dep’t of Homeland Sec. & Wackenhut COrrrections Corporation, GEO Group, ACB-3-C-0008, C-4 (2003), https://www.ice.gov/doclib/foia/contracts/acb-3-c-0008_wackenhut_corrections_corporation_05-foia-1767.pdf (hereinafter “Contract”).
26. See Draft SOO for MOC, *supra* note 24, § C.2.2; Contract, *supra* note 25, at C-3, C-4.
27. See Draft SOO for MOC, *supra* note 2430, § C.2.2; Instruction 5500.1D of the United States Naval Station Guantanamo Bay Cuba re: Regulations and Policies Regarding Migrants, NSGBINST 5500.1D/N2 (May 18, 2021) (hereinafter “Instruction 5500.1D”). Photocopies of the “Instruction 5500.1D” and an English translation are attached as Appendix A.
28. See Draft SOO for MOC, *supra* note 24, § C.2.2
29. Instruction 5500.1D, *supra* note 27, §§ 4(o), 5(a)(3); DraftSOO for MOC, *supra* note 24, § C.2.2.
30. Draft SOO for MOC, *supra* note 24, §§ C.2.1, C.2.2; Instruction 5500.1D, *supra* note 27, §§ 4(p), 5(a)(3).
31. Instruction 5500.1D, *supra* note 27, § 5(a)(2)-(3) (“DHS is responsible for the custody, care, security, transportation, and other needs of undetermined migrants until the migrant is granted protected status and transferred to DoS”).
32. *Id.* § 4(i).
33. See *id.* §§ 7-10
34. Int’l Org. for Migration, *Who We Are*, <https://www.iom.int/who-we-are> (last visited Oct. 30, 2023).
35. Int’l Org. for Migration, *Financial Report for the Year Ended 31 December 2022* 8 (2023), available at <https://governingbodies.iom.int/system/files/en/scpf/32nd/c-114-3-financial-report-for-2022.pdf>.
36. Janie A. Chuang, *The International Organization for Migration and New Global Migration Governance*, 63 Harv. Int’l L.J. 401, 404-06 (2022); see also Hum. Rights Watch, *The International Organization for Migration (IOM) and Human Rights Protection in the Field: Current Concerns* (2003), available at <https://www.hrw.org/legacy/backgrounder/migrants/iom-submission-1103.htm>.
37. See e.g., Int’l Org. for Migration, *IOM and the USRAP*, <https://usrap.iom.int/iom-and-united-states-refugee-admissions-program-usrap> (last visited Nov. 9, 2023).
38. See, e.g., Int’l Org. for Migration, *UN Migration Agency (IOM) Improves Living Conditions for Detained Migrants in Libya* (May 5, 2017), <https://www.iom.int/news/un-migration-agency-iom-improves-living-conditions-detained-migrants-libya>; Goodwin-Gill, *supra* note 37; Chuang, *supra* note 36, at 427-28. <https://www.iom.int/news/un-migration-agency-iom-improves-living-conditions-detained-migrants-libya>.
39. Chuang, *supra* note 36 at 405-06, 426; Guy S. Goodwin-Gill, *A Brief and Somewhat Sceptical Perspective on the International Organization for Migration* (Apr. 7, 2019), <https://www.kaldorcentre.unsw.edu.au/publication/brief-and-somewhat-sceptical-perspective-international-organization-migration>.
40. Instruction 5500.1D
41. *Id.* at 8.
42. *Id.* at 9.
43. *Id.* at 3.
44. *Id.* at 1.
45. Performance Work Order, Wackenhut Corrections Corporation, GEO Group, https://www.ice.gov/doclib/foia/contracts/acb-3-c-0008_wackenhut_corrections_corporation_05-foia-1767.pdf, at C-4.

46. See, e.g., *Gates v. Cook*, 376 F.3d 323, 334 (5th Cir. 2004) (describing the issue as “[f]ecal and other matter flushed by a toilet in one cell will bubble up in the adjoining cell unless the toilets are flushed simultaneously”).
47. See David Tellez et al., *The United States Detention System for Migrants: Patterns of Negligence and Inconsistency*, 6 J. of Migration & Health 1, 2 (2022), available at <https://tinyurl.com/3hsavbcd> (“While in US custody, migrants are subject to the standards and oversight of each individual agency and facility where they are detained. . . . The three US detention agencies (CBP, ICE, and ORR) each conduct their monitoring and evaluation (M&E) operations, bound to their own set of detention standards for the populations in their respective custody”); see also *Flores v. Barr*, 934 F.3d 910, 911 (9th Cir. 2019) (The settlement agreement, incorporated into a consent decree, requires immigration agencies to hold such minors in their custody “in facilities that are safe and sanitary.” The Agreement also requires the government to treat these “minors in its custody with dignity, respect, and special concern for their particular vulnerability as minors”).
48. See Instruction 5500.1D at 1, 3.
49. *Farmer v. Brennan*, 511 U.S. 825, 832 (1994) (internal quotation marks omitted).
50. See *Gates*, 376 F.3d at 334, 341 (upholding an injunction remedying ping-pong toilets and noting, “[n]o one in civilized society should be forced to live under conditions that force exposure to another person’s bodily wastes”); *Ramos v. Lamm*, 639 F.2d 559, 569-70 (10th Cir. 1980) (sustaining the district court’s conclusion that the facility was “grossly inadequate and constitutionally impermissible” where evidence pointed to rodent infestation, mold buildup, leaking pipes, and defective plumbing); see also *Flores*, 934 F.3d at 916 (holding that “[a] ssuring that children . . . drink clean water, [and] are housed in hygienic facilities with sanitary bathrooms . . . are without doubt essential to the children’s safety”).
51. See, e.g., U.S. Immigr. & Customs Enf’t, *2020 Family Residential Standards (FRS)*, 2.1: Admission and Release, available at https://www.ice.gov/doclib/frs/2020/2.1_AdmissionRelease.pdf.
52. See *Estelle v. Gamble*, 429 U.S. 97, 103 (1976) (“[E]lementary principles establish the government’s obligation to provide medical care for those whom it is punishing by incarceration. An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met.”); *Doe 4 ex rel. Lopez v. Shenandoah Valley Juv. Ctr. Comm’n*, 985 F.3d 327, 329 (4th Cir. 2021) (remanding under the standard of professional judgment where unaccompanied immigrant children alleged that an operator of the state secure juvenile detention facility failed to implement trauma-informed care for children at risk of self-harm and attempted suicide).
53. See *supra*, p. 21
54. See, e.g., *Procunier v. Martinez*, 416 U.S. 396, 413 (1974) (“Prison officials may not censor inmate correspondence simply to eliminate unflattering or unwelcome opinions or factually inaccurate statements”); *Gomez v. Vernon*, 255 F.3d 1118, 1122 (9th Cir. 2001) (upholding injunctive relief against prison officials who retaliated against inmates for exercising their right to access courts); *Ams. for Immigr. Just. v. U.S. Dep’t of Homeland Sec.*, No. 22-3118, 2023 WL 1438376, at *21 (D.D.C. Feb. 1, 2023) (ordering facilities to allow confidential attorney-client calls from immigration detention).
55. Compare Instruction 5500.1D at 9, with *Procunier*, 416 U.S. at 415 (affirming the invalidation of prison regulations that censored statements that “unduly complain” or “magnify grievances,” which allowed prison officials to “suppress unwelcome criticism”) (internal quotation marks omitted).
56. *Contra* U.S. Immigr. & Customs Enf’t, 2019 *National Detention Standards for Non-Dedicated Facilities*, 5.4 (II)(J) (providing for confidential attorney calls), available at <https://www.ice.gov/doclib/detention-standards/2019/nds2019.pdf>.
57. U.S. Immigr. & Customs Enf’t, *2020 Family Residential Standards (FRS): Program Philosophy, Goals, and Expected Outcomes* 1, 9 (2020), available at <https://www.ice.gov/doclib/frs/2020/2020family-residential-standards.pdf>.
58. See U.S. Immigr. & Customs Enf’t, *2020 Family Residential Standards: 5.2 Educational Policy 2* (2020), available at https://www.ice.gov/doclib/frs/2020/5.2_EducationalPolicy.pdf.
59. See *D. B. v. Tewksbury*, 545 F. Supp. 896, 905 (D. Or. 1982) (holding that the lack of educational or recreational materials and failure to train staff who are able to meet the psychological needs of confined children, alone and in combination with other factors, constitute unlawful punishment of children who are in pretrial detention).
60. See, e.g., *GovTribe, Indefinite Delivery Contract HSCEDM17D00011* (June 1, 2017), available at <https://govtribe.com/award/federal-idv-award/indefinite-delivery-contract-hscedm17d00011>.
61. Livia Luan, *Profiting from Enforcement: The Role of Private Prisons in U.S. Immigration Detention*, Migration Pol’y Inst. (May 2, 2018), <https://www.migrationpolicy.org/article/profitting-enforcement-role-private-prisons-us-immigration-detention>
62. *Id.*
63. Instruction 5500.1D at 3.
64. 8 U.S.C. § 1182(d)(5)(A)

65. Int'l Maritime Org., Maritime Safety Comm., Guidelines on the Treatment of Persons Rescued at Sea, Res. MSC.167(78) 6.12 (May 20, 2004), available at <https://www.refworld.org/docid/432acb464.html>.
66. See, e.g., UNHCR, *Desperate Journeys: Refugees and Migrants Arriving in Europe and at Europe's Borders* 5 (2019), available at <https://www.unhcr.org/desperatejourneys>.
67. *Id.* at 7.
68. US Coast Guard News, *Coast Guard repatriates 311 people to Haiti* (February 20, 2023) available at <https://www.news.uscg.mil/Press-Releases/Article/3302743/coast-guard-repatriates-311-people-to-haiti/#:~:text=%E2%80%9COur%20crews%20our%20doing%20their,Migrants%20in%20Fiscal%20Year%202022>.
69. U.S. Citizenship & Immigr. Servs., *Questions and Answers: Credible Fear Screening*, <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/questions-and-answers-credible-fear-screening> (last updated Sept. 12, 2023).
70. See e.g., U.S. Citizenship & Immigr. Servs., *Refugee, Asylum, and International Operations Directorate - Officer Training* (Dec. 20, 2019), https://www.uscis.gov/sites/default/files/document/lesson-plans/Sources_of_Authority_RAIO_Lesson_Plan.pdf.
71. Memorandum from Peter E. Mina, Senior Off. Performing the Duties of the Off. of C.R. and C.L., and Susan Mathias, Assistant Gen. Couns., Legal Couns. Div., Off. of the Gen. Couns. (Jan. 20, 2023), <https://www.dhs.gov/sites/default/files/2023-05/retention-memo-maritime-interdiction-01-20-23.pdf>.



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5500 Manual (in Spanish) and English Translation

NSGBINST 5500.1D
N2
18 de Mayo 21

INSTRUCCIÓN 5500.1D DE LA ESTACIÓN NAVAL DE LOS ESTADOS UNIDOS, BAHÍA DE GUANTANAMO, CUBA

De: Oficial al Mando, Estación Naval de los Estados Unidos, Bahía de Guantánamo, Cuba

Asunto: REGULACIONES Y POLÍTICAS RELATIVAS A MIGRANTES

Ref.: (a) Orden Ejecutiva 13276
(b) NSGBINST 3821.1
(c) NAVSTAGTMOINST 1710.10B
(d) NAVSTAGTMOINST 5760.1E
(e) NSGBINST 1754.1B
(f) NAVSTAGTMOINST 4060.1
(g) NSGBINST 3821.1

Anexos: (1) Declaración de conocimiento de las reglas y regulaciones para los migrantes
(2) Formulario de Solicitud para Migrantes de la Estación Naval

1. Propósito. Establecer las políticas y reglamentos de la instalación que rigen a los migrantes que se alojan temporalmente en la Estación Naval de los Estados Unidos, Bahía de Guantánamo, Cuba (NSGB). Este documento se dirige a la misión conjunta del Departamento de Estado de los Estados Unidos, el Departamento de Seguridad Nacional de los Estados Unidos, y el Departamento de Defensa de los Estados Unidos para proveer custodia, cuidado, y seguridad a los migrantes que necesiten protección mientras esperan evaluación y/o reasentamiento. Este documento es diseñado para garantizar la seguridad de la Estación Naval y los migrantes. La intención es que los migrantes se sientan bienvenidos como miembros de la comunidad de la NSGB durante su estadia sin infringir las operaciones y la seguridad de la instalación. Migrantes no son detenidos ni encarcelados, y tienen la libertad de regresar a su país de origen.

2. Anulación. NAVSTAGTMOINST 5500.1C.

3. Aplicabilidad. Esta instrucción se aplica a toda persona a bordo la NSGB independientemente de su rango, nacionalidad o estado militar. Esta instrucción es una orden punitiva legal aplicable bajo el Código Uniforme de Justicia Militar (UCMJ). Esta instrucción también puede ser ejecutada a través de medidas administrativas, incluyendo entre otros, restricción de acceso a lugares específicos, la revocación de ciertos privilegios, la revocación de la autorización de ingreso, y exclusión. Excepciones a esta regla deben ser aprobadas por el Oficial al Mando de la NSGB.

4. Definiciones. A menos que se especifique de otra manera, a lo largo de esta instrucción aplican las siguientes definiciones:

a. Bebidas alcohólicas. Vino, licor, licores destilados, otros licores destilados, cerveza y bebidas malteadas alcohólicas. Para propósitos de esta instrucción, este término no incluye la "cerveza no alcohólica" (cerveza con menos de la mitad del uno por ciento de alcohol por volumen).

**Instruction 5500.1D of the United States Naval Station
Guantanamo Bay Cuba**

From: Commanding Officer, U.S. Naval Station, Guantanamo Bay, Cuba

Subject: REGULATIONS AND POLICIES REGARDING MIGRANTS

Ref: (a) Executive Order 13276
(b) NSGBINST 3821.1
(c) NAVSTAGTMOINST 1710.10B
(d) NAVSTAGTMOINST 5760.1E
(e) NSGBINST 1754.1B
(f) NAVSTAGTMOINST 4060.1
(g) NSGBINST 3821.1

Appendixes: (1) Statement of knowledge of rules and regulations for migrants
(2) Application Form for Naval Station Migrants

1. Purpose. To establish facility policies and regulations governing migrants temporarily housed in the U.S. Naval Station, Guantanamo Bay, Cuba (NSGB). This document addresses the joint mission of the U.S. Department of State, U.S. Department of Homeland Security, and U.S. Department of Defense to provide custody, care, and security for migrants in need of protection while awaiting evaluation and/or resettlement. This document is designed to ensure the safety and security of the Naval Station and the migrants. The intent is for migrants to feel welcome as members of the NSGB community during their stay without any infringement on the operations and security of the facility. Migrants are not detained or incarcerated, and are free to return to their home country.

2. Annulment. NAVSTAGTMOINST 5500.1C.

3. Applicability. This instruction applies to every person on board the NSGB regardless of rank, nationality or military status. This instruction is a lawful punitive order applicable under the Uniform Code of Military Justice (UCMJ). This instruction may also be enforced through administrative measures, including but not limited to, restriction of access to specific locations, revocation of certain privileges, revocation of entry clearance, and exclusion. Exceptions to this rule must be approved by the NSGB Commanding Officer.

4. Definitions. Unless otherwise specified, throughout this instruction the following definitions apply:

a. Alcoholic beverages. Wine, liquor, distilled liquors, other distilled liquors, beer, and malted alcoholic beverages. For purposes of this instruction, this term does not include nonalcoholic beer (beer with less than one-half of one percent alcohol by volume).

b. Horas del Día. El período de tiempo entre el amanecer y la puesta del sol. La puesta del sol será determinado por el sonido de los colores por la tarde.

c. Exclusión. Remoción permanente de NSGB. El reingreso o el intento de reingreso después de la exclusión es un delito punible en virtud del Título 18, Código de los Estados Unidos, Sección 1382.

d. DHS. Departamento de Seguridad Nacional de los Estados Unidos

e. DoD. Departamento de Defensa de los Estados Unidos

f. DoS. Departamento de Estado de los Estados Unidos

g. Escolta. Un individuo o grupos de individuos que son responsables de la supervisión de eventos o actividades específicas de los migrantes. Mientras escoltan a los migrantes, las escoltas tienen la responsabilidad de reportar infracciones de todas las normas, reglamentos e instrucciones. Las escoltas pueden ser miembros de la agencia patrocinadora de los migrantes u otras personas competentes y debidamente instruidas por personal de Operaciones de Migrantes de la NSGB. Para propósitos de esta instrucción, debe haber al menos una escolta por cada cinco migrantes.

h. Foro Administrativo Interagencial para los Migrantes (IMAF). Un foro administrativo diseñado para analizar y abordar los casos presuntos de mala conducta de los migrantes alojados en la NSGB. Diríjase a referencia (b).

i. Organización Internacional para las Migraciones (IOM). DoS ha autorizado a la Organización Internacional para las Migraciones para que actúe en nombre de DoS en cuanto a la atención, la custodia y el bienestar de los migrantes protegidos.

j. Migrante. Nacionales cubanos y extranjeros intercedidos o interceptados en la región del Caribe y alojados en el Centro de Operaciones para Migrantes de la NSGB (MOC), según referencia (a).

k. Centro de Operaciones para Migrantes (MOC). Las instalaciones dentro del cerco perimetral que están asignadas colectivamente a DHS y DoS específicamente para el propósito de cumplir con los requisitos indicados en Referencia (a). Actualmente esta área se localiza en el lado del sotavento de la instalación e incluye los edificios AV622, 1567, la Unidad de Alojamiento Especial (SHU), las instalaciones de carpintería, el centro de recreación y otros edificios o instalaciones designados para las Operaciones de Migrantes en las inmediaciones cercanas a los edificios de vivienda.

(1) El "Área A" del MOC se refiere a las unidad de vivienda AV622 donde migrantes protegidos residen.

b. Hours of the Day. The period of time between sunrise and sunset. Sunset will be determined by the sound of the colors in the afternoon.

c. Exclusion. Permanent removal from NSGB. Reentry or attempted reentry after elusion is an offense punishable under Title 18, United States Code, Section 1382.

d. DHS. United States Department of Homeland Security.

e. DoD. United States Department of Defense

f. DoS. United States Department of State

g. Escort. An individual or groups of individuals who are responsible for the supervision of specific migrant events or activities. While escorting migrants, escorts are responsible for reporting violations of all rules, regulations and instructions. Escorts may be members of the migrant's sponsoring agency or other competent persons properly instructed by NSGB Migrant Operations personnel. For purposes of this instruction, there should be at least one escort for every five migrants.

h. Interagency Migrant Administrative Forum (IMAF). An administrative forum designed to analyze and address alleged cases of misconduct by migrants housed at the NSGB. See reference (b).

i. International Organization for Migration (IOM).

DoS has authorized the International Organization for Migration to act on behalf of DoS in the care, custody and welfare of protected migrants.

j. Migrant. Cuban and foreign nationals interceded or intercepted in the Caribbean region and housed at the NSGB Migrant Operations Center (MOC), as per reference (a).

k. Migrant Operations Center (MOC). The facilities within the perimeter fence that are collectively assigned to DHS and DoS specifically for the purpose of meeting the requirements listed in Reference (a). This area is currently located on the leeward side of the installation and includes buildings AV622, 1567, the Special Housing Unit (SHU), carpentry facilities, the recreation center, and other buildings or facilities designated for Migrant Operations in the immediate vicinity of the housing buildings.

(1) MOC Area A refers to housing unit AV622 where protected migrants reside.

(2) El "Área B" del MOC se refiere a las instalaciones ampliadas más allá de la "Área A" del MOC que incluye instalaciones recreativas tal como el pabellón y la área de carpintería.

- l. Menor. Cualquier persona menor de 18 años.
- m. NSGB. Estación Naval de los Estados Unidos, Bahía de Guantánamo, Cuba
- n. CO de la NSGB. El Oficial al Mando de la Estación Naval de los Estados Unidos, Bahía de Guantánamo, Cuba
- o. Migrante Protegido. Migrante a quien la Secretaria de Seguridad Nacional le ha otorgado la condición de Estado Protegido indicando que las circunstancias del migrante son tales que él o ella necesitan protección basado en un temor bien fundado de persecución o tortura si es retornado al país de origen. Los migrantes protegidos residen en MOC "Área A" bajo el cuidado y la custodia de DoS.
- p. Reasentamiento. La reubicación y la integración de los migrantes protegidos en un país seguro que no incluirá a los Estados Unidos.
- q. Residente. Para el propósito de esta instrucción un residente se define como cualquier persona a bordo la NSGB, independiente de su mando, su empleador, su nacionalidad o su estado militar. El término incluye tanto al personal asignado en forma permanente como a los visitantes temporales oficiales y no oficiales.
- r. Patrocinador. La agencia responsable por el cuidado y la custodia de los migrantes según la referencia (a). El término incluye a los agentes de la agencia, empleados, y personas designadas cuyas funciones requieren la interacción con migrantes. Los patrocinadores de los migrantes suelen ser DHS (o su representante designado) o DoS (o su representante designado).
- s. Panel de Revisión Tripartita (TRP). El TRP consiste del Oficial de Enlace de Operaciones de Migrante de la NSGB (MOLO), un representante de DoS, un representante de DHS, y otros según sea necesario. El TRP se reunirá en persona, vía teleconferencia, o vía correspondencia electrónica, según sea necesario.
- t. Migrante no determinado. Un migrante que aún no ha sido definitivamente evaluado por DHS para determinar si califica como migrante protegido. Los migrantes no determinados residen en el MOC "Área B", Edificio 1567 bajo la responsabilidad del DHS.
- u. Repatriación Voluntaria. Un proceso mediante el cual un migrante protegido ejerce voluntariamente su derecho a salir de la NSGB y regresar a su país de nacionalidad (o, en el caso de nacionales Cubanos, regresar a territorio controlado por Cuba), cuando las autoridades de su país de nacionalidad acepten dicha repatriación.

(2) MOC “Area B” refers to the expanded facilities beyond MOC “Area A” which includes recreational facilities such as the pavilion and the carpentry area.

l. Minor. Any person under 18 years of age.

m. NSGB. United States Naval Station, Guantanamo Bay, Cuba.

n. NSGB CO. The Commanding Officer of the U.S. Naval Station, Guantanamo Bay, Cuba.

o. Protected Migrant. A migrant who has been granted Protected Status status by the Secretary of Homeland Security indicating that the migrant’s circumstances are such that he or she is in need of protection based on a well-founded fear of persecution or torture if returned to the country of origin. Protected migrants reside in MOC “Area A” under the care and custody of DoS.

p. Resettlement. The relocation and integration of protected migrants to a safe country that will not include the United States.

q. Resident. For the purpose of this instruction, a resident is defined as any person on board the NSGB, regardless of command, employer, nationality, or military status. The term includes both permanently assigned personnel and official and unofficial temporary visitors.

r. Sponsor. The agency responsible for the care and custody of migrants under reference (a). The term includes agency officials, employees, and designees whose duties require interaction with migrants. Migrant sponsors are usually DHS (or its designated representative) or DoS (or its designated representative).

s. Tripartite Review Panel (TRP). The TRP consists of the NSGB Migrant Operations Liaison Officer (MOLO), a DoS representative, a DHS representative, and others as needed. The TRP will meet in person, via teleconference, or via email correspondence, as needed.

t. Migrant not determined. A migrant who has not yet been definitively evaluated by DHS to determine whether he or she qualifies as a protected migrant. Undetermined migrants reside in MOC “Area B”, Building 1567 under the responsibility of DHS.

u. Voluntary Repatriation. A process by which a protected migrant voluntarily exercises his or her right to leave the NSGB and return to his or her country of nationality (or, in the case of Cuban nationals, return to Cuban-controlled territory), when the authorities of his or her country of nationality accept such repatriation.

5. Antecedentes.

a. Roles y responsabilidades según la referencia (a).

(1) DoD tiene la obligación de poner a disposición instalaciones que están en exceso a las necesidades militares actuales y la provisión en la que no interfiera con la operación y la seguridad de la base. Estos recursos se ponen a disposición para la vivienda y el cuidado de cualesquier extranjero indocumentado intercedidos o interceptados en la región del Caribe y tomados bajo custodia.

(2) DHS es responsable por la custodia, cuidado, seguridad, transporte y otras necesidades de los migrantes indeterminados hasta que se otorgue el estado de protección al migrante y se transfiera a DoS.

(3) DoS es responsable de la custodia, cuidado, seguridad, transporte y otras necesidades de los migrantes protegidos en la NSGB. Dicha asistencia se prestará hasta el reasentamiento o repatriación voluntaria.

b. Política. Los migrantes no están detenidos en esta instalación. Están alojados temporalmente en la instalación y pueden solicitar su repatriación en cualquier momento. El manejo de esta población es una misión conjunta. Las reglas en esta instrucción existen para salvaguardar la condición de los migrantes y para brindar claridad a esta misión crítica interagencial. La NSGB es una instalación remota, pero estratégicamente vital, con recursos limitados. Hasta este punto, la NSGB consistirá en hacer todo lo posible para que los migrantes tengan la mas alta calidad de vida que sea práctica. Sin embargo, en ningún momento esto vendrá a expensa de la seguridad, buen orden y disciplina, la protección de la fuerza o el cumplimiento de la misión.

6. Aplicación. El estricto cumplimiento de las disposiciones de esta instrucción es obligatorio para todas las personas a bordo la NSGB. Las personas que incumplan estas reglas o que ayuden a otras personas a incumplirlas serán sometidas a acciones administrativas. Para el personal militar, esta instrucción es una orden punitiva aplicable bajo el Código Uniforme de Justicia Militar. Los civiles no migrantes que violen esta instrucción pueden enfrentar consecuencias administrativas que incluyen pero no se limita a la exclusión inmediata de esta instalación. Los migrantes que violen esta instrucción pueden enfrentar consecuencias administrativas o disciplinarias que incluyen pero no limitado a la restricción de habitación, restricción al MOC, y/o denegación, suspensión o revocación del acceso a la costa de barlovento o sotavento u otros privilegios. Se espera de todo el personal que reporte las infracciones a esta instrucción.

7. Privilegios de acceso al área y las instalaciones

a. Todos los migrantes deben residir en el MOC a menos que las cuestiones de capacidad dicten lo contrario. Las actividades de los migrantes se deben concentrar en el lado de sotavento de la instalación. Se espera que la actividad de los migrantes en el lado de barlovento de la base tenga un propósito y sea planificada y supervisada. En todo momento los migrantes están bajo la autoridad de sus patrocinadores y escoltas designadas. Es la responsabilidad del patrocinador a

5. Background information.

a. Roles and responsibilities as per reference (a).

(1) DoD has the obligation to make available facilities that are in excess to current military requirements and provision where it does not interfere with the operation and security of the base. These resources are made available for the housing and care of any undocumented foreigners apprehended or intercepted in the Caribbean region and taken into custody.

(2) DHS is responsible for the custody, care, security, transportation, and other needs of undetermined migrants until the migrant is granted protected status and transferred to DoS.

(3) DoS is responsible for the custody, care, security, transportation and other needs of protected migrants in the NSGB. Such assistance will be provided until voluntary resettlement or repatriation.

b. Policy. Migrants are not detained at this facility. They are temporarily housed at the facility and may request repatriation at any time. Management of this population is a joint mission. The rules in this instruction exist to safeguard the status of the migrants and to provide clarity to this critical interagency mission. NSGB is a remote, but strategically vital, facility with limited resources. To this point, the NSGB will consist of doing everything possible to ensure that the migrants have the highest quality of life that is practical. However, at no time will this come at the expense of security, good order and discipline, force protection or mission accomplishment.

6. Application. Strict compliance with the provisions of this instruction is mandatory for all persons on board the NSGB. Persons who violate these rules or assist others to violate them will be subject to administrative action. For military personnel, this instruction is an enforceable punitive order under the Uniform Code of Military Justice. Non-migrant civilians who violate this instruction may face administrative consequences including but not limited to immediate exclusion from this installation. Migrants who violate this instruction may face administrative or disciplinary consequences including but not limited to restriction of habitation, restriction to MOC, and/or denial, suspension, or revocation of windward or leeward shore access or other privileges. All personnel are expected to report violations of this instruction.

7. Privileged access to the area and facilities

a. All migrants must reside in the MOC unless capacity issues dictate otherwise. Migrant activities should be concentrated on the leeward side of the facility. Migrant activity on the windward side of the base is expected to be purposeful, planned,

reportar cualquier violación de esta instrucción por parte de los migrantes bajo su supervisión al MOLO de la NSGB.

b. Los cambios en estado de los migrantes (por ejemplo, de la condición de “indeterminado” a la de “protegido”) pueden implicar un cambio de responsabilidad del patrocinador. Por lo tanto, la entidad evaluadora o el patrocinador deben notificar de inmediato (dentro de 24 horas) al CO sobre cualquier cambio de estado.

c. Los patrocinadores pueden solicitar acceso a la NSGB mas allá de las áreas designadas del MOC “A” para los migrantes que se encuentren bajo su cuidado y custodia. La solicitud se presentará por escrito vía el anexo (2). Los patrocinadores deberán informar a los migrantes sobre todas las leyes aplicables y las regulaciones de la NSGB en un idioma que entiendan, incluyendo pero no limitado a esta instrucción.

d. Discreción del CO de la NSGB. El CO de la NSGB (o su representante designado) es la autoridad que aprueba el acceso y privilegios en la NSGB para los migrantes y puede, caso por caso, otorgar excepciones a las estipulaciones de esta instrucción. El acceso y los privilegios otorgados por el CO de la NSGB son revocables y el CO de la NSGB tiene la facultad discrecional plena para otorgar, denegar, suspender, revocar o anular el acceso y otros privilegios según lo considere apropiado. Las comunicaciones de los migrantes en relación con el acceso a la base y privilegios, incluyendo las solicitudes de acceso o privilegios adicionales, deberán presentarse por escrito, firmadas por el migrante individual y encaminadas a través de su patrocinador al MOLO de la NSGB. El MOLO de la NSGB consultara con DHS y DoS con respecto a los cambios en el acceso y los privilegios para los migrantes, pero conserva la autoridad final el CO de la NSGB.

e. El acceso y los privilegios de que gozan los migrantes dependen de cada uno de los siguientes factores:

- (1) Cumplimiento del migrante con las leyes aplicables, las reglas y regulaciones de los patrocinadores, y las instrucciones y órdenes de la NSGB.
- (2) La amenaza, si alguna, presentada por el migrante a la protección, la seguridad, el buen orden y la disciplina de la NSGB y sus residentes.
- (3) Los requisitos operacionales de la NSGB y sus comandos arrendatarios.
- (4) Los recursos del patrocinador y su capacidad de proveer escoltas, según sea necesario.
- (5) Las instrucciones proveídas a los migrantes por el patrocinador sobre las reglas y regulaciones establecidas.

f. Los migrantes restringidos a sus habitaciones tienen prohibido salir de su habitación, a menos que sean escoltados por DHS (o su designado). Las violaciones a esta regla serán consideradas como una amenaza seria a la protección, la seguridad, el buen orden, y la disciplina

and supervised. At all times migrants are under the authority of their designated sponsors and escorts. It is the responsibility of the sponsor to report any violations of this instruction by migrants under their supervision to the NSGB MOLO.

b. Changes in migrant status (e.g., from “undetermined” to “protected” status) may imply a change in the sponsor’s responsibility. Therefore, the assessed entity or sponsor must immediately (within 24 hours) notify the CO of any change in status.

c. Sponsors may request access to the NSGB beyond the designated MOC “A” areas for migrants in their care and custody. The request shall be submitted in writing via attachment (2). Sponsors shall inform migrants of all applicable laws and NSGB regulations in a language they understand, including but not limited to this instruction.

d. NSGB CO Discretion. The NSGB CO (or his or her designated representative) is the approving authority for access and privileges at NSGB for migrants and may, on a case-by-case basis, grant exceptions to the provisions of this instruction. Access and privileges granted by the NSGB CO are revocable and the NSGB CO has full discretion to grant, deny, suspend, revoke or rescind access and other privileges as he/she deems appropriate. Communications from migrants regarding base access and privileges, including requests for additional access or privileges must be submitted in writing, signed by the individual migrant, and routed through their sponsor to the NSGB MOLO. The NSGB MOLO will consult with DHS and DoS regarding changes in access and privileges for migrants, but remains the final authority of the NSGB CO.

e. The access and privileges enjoyed by migrants depend on each of the following factors:

- (1) Migrant compliance with applicable laws, sponsor rules and regulations, and NSGB instructions and orders.
- (2) The threat, if any, posed by the migrant to the safety, security, good order, and discipline of NSGB and its residents.
- (3) The operational requirements of the NSGB and its tenant commands.
- (4) The sponsor’s resources and ability to provide escorts, as necessary.
- (5) The instructions provided to migrants by the sponsor on established rules and regulations.

f. Migrants restricted to their rooms are prohibited from leaving their room unless escorted by DHS (or designee). Violations of this rule will be considered a serious threat to safety, security, good order, and discipline of this facility and may

de esta instalación y pueden resultar en acciones administrativas adicionales.

(1) Los migrantes restringidos a sus habitaciones no recibirán sus estipendios alimentarios del DoS y se les entregarán sus alimentos tres veces al día.

g. Los migrantes que han sido restringidos al MOC tienen prohibidos salir del cerco perimetral del MOC (MOC "A"), a menos que sean escoltados por DHS (o su designado). Las violaciones a esta regla serán consideradas una amenaza seria a la protección, la seguridad, el buen orden, y la disciplina de esta instalación y pueden resultar en acciones administrativas adicionales.

(1) Los migrantes restringidos al MOC no recibirán sus estipendios alimentarios del DoS y se les proveerán la oportunidad de ser escoltados a la cafetería tres veces al día para comer.

h. Para facilitar la coordinación interagencial, es altamente recomendado que todos los socios interagenciales se reúnan cada trimestre, a lo mínimo, para hablar de asuntos y pólizas relacionadas a la custodia, cuidado, protección, transporte, y otras necesidades de la población migrante en estado estacionario. Algunos factores como un aumento significativo de la población o asuntos disciplinarios pueden requerir reuniones más frecuentes.

i. Acceso a la NSGB. Basado en una solicitud por el patrocinador, un migrante protegido puede ser concedido acceso a la NSGB fuera del MOC. Este acceso puede ser ajustado a discreción del CO de la NSGB.

(1) Costa de Sotavento. Los migrantes con el privilegio de acceso únicamente a Sotavento pueden entrar a las áreas siguientes, además del MOC "A" y "B":

(a) Las áreas públicas de Sotavento durante las horas del día.

(b) La cafetería de Sotavento durante las horas de alimento.

(c) La playa de Chapman (sujeto a todas las demás reglas de las playas) durante las horas del día.

(d) Al mini-mercado de Navy Exchange en Sotavento durante sus horas hábiles.

(e) Los migrantes que tienen acceso únicamente a Sotavento tienen prohibido salir de la costa de Sotavento y/o cruzar a la costa de Barlovento, a menos que sean escoltados para propósitos autorizados. Las violaciones a esta regla serán consideradas una amenaza seria a la protección, la seguridad, el buen orden, y la disciplina de esta instalación y resultarán en acción administrativa.

(2) Acceso Escoltado a Barlovento. Además del acceso a Sotavento, los migrantes pueden ser elegibles para acceso con escolta a la costa de Barlovento. Los migrantes con privilegios de acceso a Barlovento pueden acceder a áreas públicas en el lado de Barlovento de la base, sujeto a que sean escoltados por el patrocinador o por el personal de supervisión. Estas

result in additional administrative actions.

(1) Migrants restricted to their rooms will not receive their food stipends from the DoS and will have their food delivered three times a day.

g. Migrants who have been restricted to the MOC are prohibited from leaving the MOC perimeter fence (MOC “A”), unless escorted by DHS (or its designee). Violations of this rule will be considered a serious threat to the safety, security, good order, and discipline of this facility and may result in further administrative action.

(1) Migrants restricted to the MOC will not receive their DoS food stipends and will be provided the opportunity to be escorted to the cafeteria three times a day for meals.

h. To facilitate interagency coordination, it is highly recommended that all interagency partners meet quarterly, at a minimum, to discuss issues and policies related to the custody, care, protection, transportation and other needs of the seasonal migrant population. Some factors such as a significant population increase or disciplinary issues may require more frequent meetings.

i. Acceso a la NSGB. Based on a request by the sponsor, a protected migrant may be granted access to the NSGB outside the MOC. This access may be adjusted at the discretion of the NSGB CO.

(1) Leeward/Sotavento Coast. Migrants with the privilege of access only to Sotavento may enter the following areas, in addition to MOC “A” and “B”:

(a) The public areas of Leeward during daylight hours.

(b) The Sotavento cafeteria during meal hours.

(c) Chapman Beach (Subject to all other beach rules) during daylight hours.

(d) The Leeward Navy Exchange mini-mart during its business hours.

(e) Migrants who have access only to Leeward are prohibited from leaving the Leeward shore and/or crossing to the Windward shore, unless escorted for authorized purposes. Violations of this rule will be considered a serious threat to the safety, security, good order and discipline of this facility and will result in administrative action.

(2) Escorted access to Barlovento. In addition to access to Sotavento, migrants may be eligible for escorted access to the Windward coast. Migrants with Windward access privileges may access public areas on the Windward side of the base, subject to escort by the sponsor or supervisory personnel. These areas include:

áreas incluyen:

(a) Las áreas públicas a lo largo de la Avenida de Sherman entre el Liceo del Centro y la Calle Deer Point.

(b) Todas las instalaciones de recreación /ejercicio del Morale, Welfare, and Recreation (MWR) incluyendo pero no limitadas a, el gimnasio Denich, la bolera, el complejo deportivo de Cooper Field, la piscina de Windjammer, y los campos de golf.

(c) Los restaurantes, incluyendo pero no limitados a, el Bayview, Bombers, Caribbean Coffee and Cream, McDonald's, Spinz, Subway, Tropical Cabana, y el Windjammer.

(d) Playas, el Museo del Faro, y Philip's Dive Park.

(e) Hospital.

(f) Iglesia.

j. Áreas Prohibidas. Independientemente del acceso concedido, los migrantes tienen prohibido el acceso a las áreas siguientes:

(1) Los bares, incluyendo pero no limitados al Clipper Club, O'Kelly's, Rick's, o el Tiki Bar.

(a) The public areas along Sherman Avenue between the Downtown Lyceum and Deer Point Street.

(b) All Morale, Welfare and Recreation (MWR) recreation/exercise facilities including but not limited to the Denich Gymnasium, bowling alley, Cooper Field Sports Complex, Windjammer Pool, and golf courses.

(c) The restaurants, including but not limited to, the Bayview, Bombers, Caribbean Coffee and Cream, McDonald's, Spinz, Subway, Tropical Cabana and the Windjammer.

(d) Beaches, the Lighthouse Museum, and Philip's Dive Park.

(e) Hospital.

(f) Church.

j. Prohibited areas. Regardless of the access granted, migrants are prohibited access to the following areas:

(1) Bars, including but not limited to the Clipper Club, O'Kelly's, Rick's, or the Tiki Bar.

- (2) Navy Lodge
- (3) Navy Gateway Inns and Suites
- (4) Cualquier área de vivienda familiar o de solteros
- (5) Cualquier área de JTF-GTMO.
- (6) La oficina de correo o los buzones de correo.
- (7) El terminal aéreo.
- (8) Las instalaciones de seguridad de la Estación Naval.

k. **Transportación:** La transportación terrestre de los migrantes es responsabilidad del patrocinador. En situaciones de emergencia (según sea determinado por un profesional médico) cuando se requiera transportación para cruzar la bahía fuera del horario normal del ferry /Bote de Utilidad (U-Boat) o en situaciones donde la bahía esté cerrada a transporte que no sea militar, los patrocinadores pueden solicitar asistencia de transporte de la NSGB al Hospital Naval de los Estados Unidos, Bahía de Guantánamo, Cuba.

(1) **Sotavento.** Se permite el transporte en autobús entre áreas e instalaciones autorizadas de Sotavento.

(2) **Barlovento.** Para los migrantes que reciben acceso escoltado a la costa de Barlovento, se permite el transporte de ferry /U-Boat sin escolta entre Barlovento y Sotavento siempre y cuando los migrantes estén bajo control positivo mientras esperan para abordar e inmediatamente después de desembarcar el ferry / U-boat en Barlovento. Una vez en Barlovento, el transporte de migrantes es responsabilidad del patrocinador.

(3) Los migrantes no pueden operar vehículos de motor o embarcaciones.

l. **Empleo.** Los migrantes que tienen a lo menos 18 años de edad, y a los que se les haya concedido acceso a la base, pueden buscar empleo, sujeto a las siguientes restricciones:

(1) Solicitudes de empleo para los migrantes con organizaciones terceras o contratistas deben tramitarse al CO de la NSGB para aprobación por medio de anexo (2). El horario/ubicación laboral del migrante se proporcionara al CO de la NSGB cuando se solicite, o cuando se hagan cambios significativos.

(2) Si el empleo se encuentra fuera del área de acceso aprobada para el migrante, el patrocinador enviará notificación al MOLO de la NSGB únicamente para conocimiento de la situación.

(3) Los migrantes pueden solicitar puestos vacantes para los que el reclutamiento está abierto a extranjeros o para puestos abiertos a migrantes en virtud de un acuerdo entre la Estación Naval y el patrocinador de los migrantes o su designado.

- (2) Navy Lodge.
- (3) Navy Gateway Inns and Suites.
- (4) Any single or family living area.
- (5) Any area of JTF-GTMO.
- (6) The post office or mail boxes.
- (7) The air terminal.
- (8) The security facilities at the Naval Station.

k. Transportation: Ground transportation of migrants is the responsibility of the sponsor. In emergency situations (as determined by a medical professional) when transportation is required to cross the bay outside of the normal ferry/u-boat schedule or in situations where the bay is closed to non-military transportation, sponsors may request transportation assistance from the NSGB to the U.S. Naval Hospital, Guantanamo Bay, Cuba.

(1) Leeward / Sotavento. Bus transportation between authorized Sotavento areas and facilities is permitted.

(2) Windward / Barlovento. For migrants who receive escorted access to the Windward coast, unescorted ferry/u-boat transport between Windward and Leeward is permitted as long as the migrants are under positive control while waiting to board and immediately after disembarking the ferry/u-boat in Windward. Once in Barlovento, the transport of migrants is the responsibility of the sponsor.

(3) Migrants may not operate motor vehicles or boats.

1. Employment. Migrants who are at least 18 years of age, and who have been granted access to the base, may seek employment, subject to the following restrictions:

(1) Applications for employment for migrants with third party organizations or contractors must be processed to the NSGB CO for approval by attachment (2). The migrant's work schedule/location will be provided to the NSGB CO upon request, or when significant changes are made.

(2) If the employment is outside the migrant's approved access area, the sponsor will send notification to the NSGB MOLO only for situational awareness.

(3) Migrants may apply for vacant positions for which recruitment is open to foreign nationals or for positions open to migrants under an agreement between the Naval Station and the migrant's sponsor or designee.

(4) Los migrantes deben coordinar asistencia con su patrocinador para interpretación, presentaciones a posibles empleadores, asistencia bancaria, horario de trabajo y ubicación.

(5) Se les puede permitir a los empleadores actuar como escoltas de los migrantes durante horas de trabajo, siempre y cuando hayan sido informados, hayan firmado la declaración de entendimiento de las reglas y regulaciones para los migrantes, y hayan sido autorizados por el CO de la NSGB o su designado.

(6) Los migrantes deben ser escoltados hacia y desde su lugar de trabajo. Por ejemplo, un migrante que viene de Sotavento debe ser escoltado desde el muelle del ferry en Barlovento hasta el sitio de trabajo y viceversa.

(7) Los migrantes empleados deben cumplir con las normas de empleo establecidas por su empleador. Si surge algún conflicto entre estas normas de empleo y las reglas contenidas en esta instrucción, esta instrucción tendrá precedencia.

m. Acceso a los Dispositivos de la Comunicación y a las Facilidades. Con la excepción de las llamadas telefónicas monitoreadas y el uso supervisado de Internet destinado al trabajo escolar (grados kindergarten – 12 grados), los migrantes tienen prohibido utilizar todos los métodos y dispositivos de comunicación, incluyendo pero no limitados a los teléfonos públicos o de la base, teléfonos móviles o celulares, tarjetas de llamadas telefónicas, radio, internet, correos electrónicos, y protocolos de voz por el internet. El contratista de seguridad de migrante nombrado por DHS/DoS es la autoridad responsable para el monitoreo de llamadas telefónicas de migrantes.

(1) A DHS se le permite facilitar, a lo mínimo, una llamada telefónica monitoreada para migrantes indeterminados que recién han llegado a la NSGB. A DoS se le permite facilitar dos llamadas telefónicas a Cuba para cada migrante protegido. La primera será programada dentro de 14 días de la determinación de protección. La segunda será programada dentro de siete días de la fecha programada de reasentamiento.

(2) Adicionalmente, cada migrante adulto y cada migrante menor no acompañado es permitido 30 (usar o perder) minutos por semana. Los menores acompañados pueden usar el teléfono durante una llamada hecha por su familiar acompañante, pero no se les permiten privilegios de llamadas telefónicas independientes. El contratista de seguridad mantendrá un registro de todas las llamadas hechas por migrantes que incluyan el nombre, fecha, hora, duración y número(s) de los migrantes marcados. Estas llamadas telefónicas supervisadas son un privilegio destinado a ser un método para que los migrantes se comuniquen con sus familiares y amigos en temas relacionados con su salud y bienestar. El acceso continuo a este privilegio sólo se concederá de conformidad con la seguridad, el buen orden y la disciplina.

(3) El personal designado a monitorear tomará todas las medidas necesarias, hasta e incluyendo la terminación de las comunicaciones, para evitar que el migrante divulgue o comunique información restringida. Las infracciones a esta regla serán consideradas una seria amenaza para la seguridad de la instalación, la seguridad en general, el buen orden y la disciplina y dará lugar a la acción administrativa. Las operaciones MOLO de la NSGB y/o el personal de

(4) Migrants should coordinate assistance with their sponsor for interpretation, introductions to potential employers, banking assistance, working hours and location.

(5) Employers may be permitted to act as escorts for migrants during working hours, provided they have been informed, have signed the statement of understanding of the rules and regulations for migrants, and have been authorized by the NSGB CO or designee.

(6) Migrants must be escorted to and from their place of work. For example, a migrant coming from Leeward must be escorted from the ferry dock in Windward to the worksite and vice versa.

(7) Employed migrants should comply with the employment standards set by their employer. If any conflict arises between these employment standards and the rules contained in this instruction, this instruction shall take precedence.

m. Access to Communication Devices and Facilities. With the exception of monitored telephone calls and supervised use of the Internet for school work (grades kindergarten - 12), migrants are prohibited from using all communication methods and devices, including but not limited to public or base telephones, cellular or mobile telephones, telephonic calling cards, radio, Internet, e-mail, and voice over Internet protocols. The DHS/DoS-appointed migrant security contractor is the responsible authority for monitoring migrant telephone calls.

(1) DHS is permitted to facilitate, at a minimum, one monitored phone call for undetermined migrants who have recently arrived in the NSGB. DoS is permitted to facilitate two telephone calls to Cuba for each protected migrant. The first will be scheduled within 14 days of the protection determination. The second will be scheduled within seven days of the scheduled resettlement date.

(2) In addition, each adult migrant and each unaccompanied minor migrant is allowed 30 (to use or lose) minutes per week. Accompanied minors may use the telephone during a call made by their accompanying family member, but are not allowed independent telephone calling privileges. The security contractor shall maintain a record of all calls made by migrants that includes the name, date, time, duration and number(s) of the migrant(s) dialed. These monitored telephone calls are a privilege intended as a method for migrants to communicate with family and friends on issues related to their side and welfare. Continued access to this privilege shall only be granted in accordance with security, proper order and discipline.

(3) Designated monitoring personnel shall take all necessary steps, up to and including termination of communications, to prevent the migrant from disclosing or communicating restricted information. Violations of this rule will be considered a serious threat to facility security, general safety, good order and discipline and will result in administrative action. NSGB MOLO operations and/or security personnel will be notified when a phone call has been forcefully terminated. Restricted information includes the following:

seguridad serán notificados cuando una llamada telefónica haya terminado a fuerza. La información restringida incluye lo siguiente:

- (a) Cualquier asistencia recibida en ruta a NSGB o antes de la interdicción.
 - (b) Rutas hacia la NSGB.
 - (c) Métodos de entrada a la NSGB.
 - (d) Estado, ubicación o composición de los campos de minas cubanas.
 - (e) Información sobre el personal de la NSGB (cualquier residente o visitante), equipo, instalaciones, preparación, o movimientos de barcos o aeronaves.
 - (f) Información sobre las encuestas o entrevistas realizadas con el migrante.
 - (g) Información sobre otros migrantes, con excepción de los familiares inmediatos.
 - (h) Información que distorsiona o exagera el tratamiento personal o médico mientras está en la NSGB.
 - (i) Información que, al ser comunicada, sería perjudicial para la seguridad de la NSGB o sus residentes.
 - (j) Información que podría alentar a otros a intentar la migración ilegal.
- (4) Todos los costos de comunicación serán pagados por el migrante o el patrocinador.

Fotos
(5) Correo. A los migrantes se les permitirá enviar dinero y cartas por correo. Los migrantes también podrán enviar fotografías de sí mismos, tomadas dentro de las áreas autorizadas del MOC. A los migrantes se les prohíbe enviar por correo cualquier grabación visual o de audio hecho por cámaras, videocámaras o cualquier otro dispositivo de grabación audiovisual. No se pueden enviar otros artículos sin el permiso previo del CO de la NSGB. Los migrantes pueden recibir correspondencia a través del contratista de seguridad designado por DHS/DoS. Los migrantes no pueden recibir paquetes. El contratista de seguridad de DHS/DoS es responsable de revisar todo el correo entrante y saliente.

8. Reglas que rigen la conducta de los migrantes. Los migrantes deben seguir las órdenes del CO de la NSGB y sus designados, además de las reglas a continuación. La violación de estas reglas o cualquier orden aplicable puede resultar en la revocación de acceso a la base fuera del MOC, y puede resultar en una acción administrativa.

- CO*
- a. Los migrantes se tratarán entre sí y con todos los residentes con respeto y dignidad.
 - b. Los migrantes no deberán comportarse de ninguna manera que ponga en peligro su seguridad y la seguridad de otros migrantes.

(a) Any assistance received en route to NSGB or prior to interdiction.

(b) Routes to NSGB.

(c) Methods of entry to NSGB.

(d) Status, location, or composition of Cuban minefields.

(e) Information on NSGB personnel (any resident or visitor), equipment, facilities, preparation, or movements of ships or aircraft.

(f) Information on surveys or interviews conducted with the migrant.

(g) Information about other migrants, except immediate family members.

(h) Information that misrepresents or exaggerates personal or medical treatment while in the NSGB.

(i) Information that, once communicated, would be detrimental to the safety of the NSGB or its residents.

(4) All communication costs will be paid by the migrant or the sponsor.

(5) Mail. Migrants will be allowed to send money and letters by mail. Migrants will also be allowed to send photographs of themselves, taken within the authorized areas of the MOC. Migrants are prohibited from mailing any visual or audio recordings made by cameras, video cameras or any other audiovisual recording device. No other items may be sent without prior permission from the NSGB CO. Migrants may receive mail through the designated DHS/DoS security contractor. Migrants may not receive packages. The DHS/DoS security contractor is responsible for screening all incoming and outgoing mail.

8. Rules regulating the Conduct of Migrants. Migrants must follow the orders of the NSGB CO and his designees, in addition to the rules below. Violation of these rules or any applicable orders may result in revocation of off-base access to the MOC, and may result in administrative action.

a. Migrants shall treat each other and all residents, with respect and dignity.

b. Migrants shall not behave in any manner that jeopardizes their safety and the safety of other migrants.

c. Identificación. Los migrantes cargaran sus tarjetas de identificación de la NSGB en todo momento.

Horas

d. Toque de queda. Con excepción de las actividades aprobadas por la NSGB, todos los migrantes, independientemente del acceso otorgado por el CO de la NSGB, permanecerán en el MOC "Área A" o MOC "Área B" entre las horas de atardecer (sonido de los colores por la tarde) y 2300. Además, con excepción de las actividades aprobadas por la NSGB, todos los migrantes, independientemente del acceso otorgado por el CO de la NSGB, estarán presentes en el MOC "Área A" entre las horas de 2300 y 0600. La "Área A" del MOC estará bajo restricción de horas tranquilas entre 2200 y 0700. Durante horas tranquilas, a los migrantes no se les permite tener invitados en sus habitaciones y el ruido se mantendrá a un nivel donde el ruido no se puede escuchar fuera de las habitaciones.

e. Menores de edad. Además de las normas específicas que siguen, el cuidado y la supervisión de los menores migrantes se regirán por referencia (c).

(1) Cuando se encuentren fuera del MOC, los menores migrantes estarán bajo la supervisión directa de un adulto migrante padre, patrocinador o patrocinador designado, a menos que el CO de la NSGB otorgue una excepción, caso por caso. Las solicitudes de excepciones se deberán de presentar en conformidad con el procedimiento establecido en párrafo 7(d).

(2) La NSGB no tiene la autoridad para inscribir a niños no dependientes del DOD en el sistema escolar del Departamento de Actividades Educativas de Defensa (DODEA). DOS puede solicitar una exención a DODEA y, sujeto a espacio disponible, puede matricular a un niño en una escuela de DOD en la Estación Naval.

(a) Si esta inscrito en las escuelas DoD de la Estación Naval, los empleados del DoDEA deberán estar informados de todas las reglas acerca del migrante menor de edad así como esta descrito en esta instrucción. OIM sera responsable por supervisar y escoltar durante las horas escolares y cuando los recogen sus papas. Durante las horas de estudio, el personal de la DoDEA oficiara como la persona a cargo del migrante menor de edad.

(b) Si los migrantes menores de edad necesitan acceso al Internet durante las horas de la escuela para uso academico, los empleados del DoDEA o de OIM los supervisaran.

Armas las prohibidas

f. Contrabando. A los migrantes no se les permite ser dueño de o poseer los siguientes artículos, denominados como "contrabando". El contrabando será confiscado por el patrocinador o las autoridades de la NSGB e inmediatamente reportado al CO de la NSGB. El contrabando incluye lo siguiente:

(1) Todas las armas de fuego (e imitación de armas de fuego) y municiones.

(2) Cuchillos: Excepto cuando estén cocinando en la cocina del MOC, comiendo, o para actividades de carpintería en la carpintería.

c. Identification. Migrants will carry their NSGB ID cards at all times.

d. Curfew. Except for NSGB approved activities, all migrants, regardless of access granted by the NSGB CO, will remain in MOC “Area A” or MOC “Area B” between the hours of dusk (sound of colors in the evening) and 2300. In addition, with the exception of NSGB approved activities, all migrants, regardless of access granted by the NSGB CO, will be present in MOC “Area A” between the hours of 2300 and 0600. MOC “Area A” will be under quiet hours restriction between 2200 and 0700. During quiet hours, migrants are not allowed to have guests in their rooms and noise will be maintained at a level where no noise can be heard outside the rooms.

e. Minors. In addition to the specific rules that follow, the care and supervision of migrant minors shall be governed by reference (e).

(1) When outside the MOC, migrant minors will be under the direct supervision of an adult migrant parent, sponsor, or designated sponsor, unless an exception is granted by the NSGB CO on a case-by-case basis. Requests for exceptions must be submitted in accordance with the procedure set forth in paragraph 7 (d).

(2) NSGB does not have the authority to enroll non-DOD dependent children in the Department of Defense Education Activities (DODEA) school system. DOS may request a waiver from DODEA and, subject to available space, may enroll a child in a DOD school at the Naval Station.

(a) If enrolled in the Naval Station DoD schools, DoDEA employees shall be informed of all rules regarding the migrant minor as described in this instruction. OIM will be responsible for supervising and escorting during school hours and when picked up by parents. During school hours, DoDEA personnel will officiate as the person in charge of the migrant minor.

(b) If migrant minors need access to the Internet during school hours for academic use, DoDEA or IOM employees will supervise them.

f. Contraband. Migrants are not permitted to own or possess the following items, referred to as ‘contraband’. Contraband will be seized by the sponsor or NSGB authorities and immediately reported to the NSGB CO. Contraband includes the following:

(1) All firearms (and imitation firearms) and ammunition.

(2) Knives; except when cooking in the MOC’s kitchen, eating, or for carpentry activities in the woodshop.

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- (3) Armas y todos los artículos convertidos en un arma.
 - (4) Armas de lanza o arpones.
 - (5) Productos químicos peligrosos o explosivos.
 - (6) Bebidas alcohólicas y otras sustancias intoxicantes.
 - (7) Pornografía y otro material sexualmente explícito.
 - (8) Las drogas ilegales o medicamentos no autorizados.
 - (9) Cámaras, videocámaras y todos los dispositivos de grabación.
 - (10) Dispositivos de comunicaciones, incluyendo, pero no limitado a, teléfonos móviles o celulares, tarjetas telefónicas y radios capaces de transmitir.
 - (11) Computadoras o dispositivos informáticos adquiridos contraria a las normas en esta instrucción.
 - (12) Fauna (muerta o viva) excepto peces.
 - (13) Uniformes e insignias militares.
 - (14) Aparatos para cocinar y electrodomésticos, con la excepción de microondas pequeñas y cafeteras (una por cada habitación), operando de manera consistente con todas las instrucciones y órdenes de seguridad eléctricas y de seguridad aplicables.

g. Deportes Acuáticos y Recreación. Los migrantes no pueden alquilar, sacar, pilotar o ser capitán de una embarcación. Con excepción de taxis acuáticas y el transporte acuático de emergencia, los migrantes sólo podrán abordar embarcaciones si están acompañados por su patrocinador en una excursión de recreación designada en conformidad con la misión del patrocinador. Los migrantes no embarcarán en embarcaciones de propiedad privada (con excepción de las embarcaciones operadas por el patrocinador para propósitos de negocios oficiales). Los migrantes no deben bucear o poseer o manejar arpones. Los migrantes sólo pueden nadar o bucear dentro del límite de 200 yardas de una playa pública dentro de su área de acceso aprobada.

h. Los migrantes participará en simulacros de emergencia por la NSGB o el patrocinador de los migrantes.

i. A los migrantes se les prohíbe realizar reparaciones eléctricas o electrónicas no autorizadas, o empalmar cables electrónicos o líneas telefónicas en cualquier lugar de la NSGB.

j. Se prohíbe a los migrantes modificaciones no autorizadas a las habitaciones, tejados,

(3) Weapons and all items converted into a weapon.

(4) Spear weapons or harpoons.

(5) Dangerous chemicals or explosives.

(6) Alcoholic beverages and other intoxicating substances.

(7) Pornography and other sexually explicit material.

(8) Illegal drugs or unauthorized medications.

(9) Cameras, video cameras and all recording devices.

(10) Communications devices, including, but not limited to mobile or cellular telephones, calling cards, and radios capable of transmitting.

(11) Computers or computing devices acquired contrary to the standards in this instruction.

(12) Wildlife, dead or alive, except fish.

(13) Military uniforms and insignia.

(14) Cooking appliances and appliances, with the exception of small microwave ovens and coffee pots (one per room), operating in a manner consistent with all applicable electrical and safety instructions and safety orders.

g. Water Sports and Recreation. Migrants may not rent, take out, pilot, or captain a watercraft. With the exception of water cabs and emergency water transportation, migrants may only board watercraft if accompanied by their sponsor on a designated recreational excursion in accordance with the sponsor's mission. Migrants shall not board privately owned vessels (with the exception of vessels operated by the sponsor for official business purposes). Migrants shall not dive or possess or handle harpoons. Migrants may only swim or dive within 200 yards of a public beach within their approved access area.

h. Migrants will participate in emergency drills by the NSGB or the migrant's sponsor.

i. Migrants are prohibited from performing unauthorized electrical or electronic repairs, splicing electronic cables or telephone lines anywhere on the NSGB.

j. Unauthorized migrants are prohibited from entering rooms, roofs, ceilings, fire detectors, emergency devices, or any other NSGB property.

techos, detectores de incendios, dispositivos de iluminación de emergencia, o cualquier otra propiedad de la NSGB.

k. Se prohíbe a los migrantes interferir con cualquier búsqueda o inspección legal por parte de las autoridades de la NSGB o sus patrocinadores. Esto incluye búsquedas de los migrantes y sus pertenencias, y pruebas de contenido alcohólico en el aliento. Además, el contratista de seguridad que está operando el MOC bajo la supervisión de DHS y DoS tiene la obligación de realizar búsquedas en los edificios del MOC, incluyendo los cuartos personales de los migrantes, para verificar que sus migrantes patrocinados cumplan con esta instrucción y otras leyes y regulaciones aplicables.

l. A los migrantes se les prohíbe acceder a las áreas administrativas y de seguridad de cualquier edificio de la NSGB, incluyendo los edificios del MOC, a menos que sean escoltados.

m. Se prohíbe a los inmigrantes cometer, conspirar a cometer, intentar cometer, o facilitar cualquier acto criminal, incluyendo pero no limitado a, la solicitación sexual o la prostitución, manifestación en propiedad Naval sin permiso, hostigamiento, disturbios, incendios provocados, extorsión, chantaje, abuso sexual, la exposición indecente, y robo.

n. Los migrantes informarán a su patrocinador sobre su paradero y sus actividades, y los patrocinadores, si se les pide, informarán al CO de la NSGB o a sus designados sobre el paradero de cualquier migrante.

o. Los migrantes que tengan acceso a cualquiera de las costas deberán firmar al salir y al regresar al MOC e indicar también a dónde van.

p. Está prohibida la comunicación entre migrantes indeterminados y/o no protegidos y migrantes protegidos.

q. Se prohíbe arrojar basura. Toda la basura debe colocarse en un recipiente apropiado para su eliminación.

r. Se permite a los migrantes utilizar, comprar y poseer dispositivos electrónicos portátiles (por ejemplo, iPods, reproductores de MP3 o reproductores de DVD) para incluir dispositivos de almacenamiento electrónicos de memoria, sujetos a las siguientes restricciones:

(1) A los migrantes se les prohíbe acceso al Internet (incluyendo, pero no limitado a, correo electrónico, web mundial, protocolo de voz sobre Internet, o cualquier medio social);

(2) Los migrantes NO pueden comprar ni poseer computadoras u otros dispositivos habilitados para Internet mientras residen en la NSGB. Dentro de siete días de reasentamiento, las computadoras o los dispositivos habilitados para Internet pueden ser adquiridos nuevos del Navy Exchange, pero serán devueltos directamente al MOC sin abrir, en su embalaje original, y entregados al personal de seguridad del MOC. Los migrantes, mientras están bajo supervisión, pueden comprobar que el dispositivo electrónico recién comprado funciona para asegurarse de que no hay problemas con el (los) dispositivo(s). Los dispositivos serán devueltos al migrante el

- k. Migrants are prohibited from interfering with any lawful search or inspection by the NSGB or its sponsors. This includes searches of migrants and their belongings, and breath alcohol content testing. In addition, the security contractor operating the MOC under the supervision of DHS and DoS is required to conduct searches of MOC buildings, including the migrants' personal quarters, to verify that their sponsored migrants are in compliance with this instruction and other applicable laws and regulations.
- l. Migrants are prohibited from accessing the administrative and security areas of any NSGB building, including MOC buildings, unless escorted.
- m. Immigrants are prohibited from committing, plotting to commit, conspiring to commit, attempting to commit, or facilitating any criminal act, including but not limited to sexual solicitation or prostitution, manifestation on Naval property without permission, harassment, rioting, arson, extortion, blackmail, sexual abuse, indecent exposure, and theft.
- n. Migrants will inform their sponsor of their whereabouts and activities, and sponsors, if requested, will inform the NSGB CO or their designees of the whereabouts of any migrant.
- o. Migrants who have access to either coast shall sign out and return to the MOC and also indicate where they are going.
- p. Communication between undetermined and/or unprotected migrants and protected migrants is prohibited.
- q. Littering is prohibited. All garbage must be placed in an appropriate container for disposal.
- r. Migrants are permitted to use, purchase and possess portable electronic devices (e.g., iPods, MP3 players, or DVD players) to include electronic memory storage devices, subject to the following restrictions:
- (1) Migrants are prohibited from accessing the Internet (including, but not limited to email, worldwide web, voice over internet protocol, or any social media);
 - (2) Migrants may NOT purchase or possess computers or other Internet-enabled devices while residing in the NSGB. Within seven days of resettlement, computers or Internet-enabled devices may be purchased new from the Navy Exchange, but will be returned directly to the MOC unopened, in their original packaging, and turned over to MOC security personnel. Migrants, while under supervision, may check that the newly purchased electronic device is working to ensure there are no problems with the device(s). The devices will be returned to the migrant on the day they permanently leave the NSGB:

día en que salen permanentemente de la NSGB;

(3) A los migrantes se les prohíbe enviar cualquier dispositivo electrónico portátil por correo.

(4) A los migrantes se les prohíbe comprar dispositivos electrónicos portátiles de cualquier otra fuente que no sea el Navy Exchange.

(5) Se prohíbe a los migrantes comprar o recibir dispositivos electrónicos portátiles usados o abiertos.

(6) Solicitudes para comprar dispositivos electrónicos deben ser encaminadas a través de Operaciones Migratorias de la NSGB para la evaluación del dispositivo.

(7) Los dispositivos electrónicos de almacenamiento de memoria están sujetos a inspección aleatoria y serán inspeccionados antes de que los migrantes protegidos salgan de la instalación.

(8) Cualquier dispositivo electrónico portátil adquirido en contra de estas restricciones será considerado como contrabando y confiscado. El CO de la NSGB tiene autoridad para autorizar la revisión de los datos almacenados en dichos dispositivos.

s. Los migrantes no deberán consumir, poseer, comprar, vender, transportar, o destilar bebidas alcohólicas.

t. Los migrantes sólo podrán participar en los servicios personales y los contratos de concesión como lo permite la referencia (f), y sólo bajo la supervisión directa del patrocinador.

9. Reglas que rigen la interacción de residentes y visitantes con los migrantes.

a. ~~Todos los residentes tratarán a los migrantes con respeto y dignidad.~~

STO

Trato
Dignidad

(3) Migrants are prohibited from sending any portable electronic device by mail.

(4) Migrants are prohibited from purchasing portable electronic devices from any source other than the Navy Exchange.

(5) Migrants are prohibited from purchasing or receiving used or opened portable electronic devices.

(6) Requests to purchase electronic devices should be routed through NSGB Migration Operations for evaluation of the device.

(7) Electronic memory storage devices are subject to random inspection and will be inspected before protected migrants leave the facility.

(8) Any portable electronic device acquired in violation of these restrictions will be considered contraband and confiscated. The NSGB CO has the authority to authorize review of data stored on such devices.

s. Migrants shall not consume, possess, purchase, sell, transport or distilled alcoholic beverages.

t. Migrants may only engage in personal services and concession contracts as permitted by reference (f), and only under the direct supervision of the sponsor.

9. Rules governing the interaction of residents and visitors with migrants.

a. All residents will treat migrants with respect and dignity.

- b. A menos que se trate de un negocio oficial, es prohibida la entrada de un residente al MOC. Los residentes que deseen ingresar al MOC en un negocio no oficial deben obtener permiso previo del CO de NSGB.
- c. Los residentes pueden participar en interacciones sociales apropiadas con migrantes en áreas públicas o en eventos públicos. Los residentes limitarán su interacción con los migrantes a asuntos relevantes o pertinentes a las actividades oficiales de la NSGB o del patrocinador, o en el caso de que el migrante esté empleado, asuntos relacionados con el empleo autorizado al migrante.
- d. Los residentes que deseen invitar a los migrantes a eventos sociales o actividades recreativas deben solicitar y recibir permiso del CO de la NSGB, o su representante designado, antes del evento. Se requiere permiso especial para asegurar que el residente anfitrión tenga conocimiento de, y asuma la responsabilidad de, cumplir con todas las reglas aplicables con respecto a los migrantes protegidos y sus interacciones con los residentes, incluyendo cualquier regla aplicable que rige la escolta, los toques de queda, las bebidas alcohólicas, la comunicación y el acceso a la computadora, y que la invitación es consistente con los requisitos operativos y de seguridad de esta instalación en el momento del evento.
- e. A los residentes y visitantes de la NSGB se les prohíbe tener relaciones sociales íntimas o relaciones sexuales con los migrantes. El incumplimiento de esta regla constituye una seria amenaza para la seguridad de la instalación, la seguridad en general, el buen orden y la disciplina. Las violaciones tendrán consecuencias punitivas o administrativas tanto para los migrantes como para los residentes involucrados.
- f. Se prohíbe a los residentes vender, distribuir o transportar bebidas alcohólicas a los migrantes. Los residentes también se les prohíbe comprar bebidas alcohólicas para los migrantes.
- g. Cualquier persona o grupo que desee donar un artículo o artículos a un migrante o migrantes debe hacerlo a través del patrocinador del migrante o el designado del patrocinador.
- h. Los residentes sólo pueden comprar bienes, como artesanías, de los migrantes a través de canales autorizados. El patrocinador de los migrantes supervisará todas las transacciones monetarias entre migrantes y residentes.
- i. Se prohíbe a los residentes comunicar cualquier información, por cualquier medio, a cualquier persona o agencia en nombre de cualquier migrante, sin obtener la aprobación previa del CO de la NSGB. Esta prohibición incluye, pero no se limita a, grabaciones fotográficas, videográficas o de audio de/o sobre los migrantes.
- j. Ningún residente deberá dirigir a los migrantes de llevar a cabo, ni ayudar a los migrantes en realizar, cualquier actividad no autorizada o criminal, incluyendo, pero no limitado a, el espionaje, la subversión, el sabotaje o el terrorismo.

- b. Unless it is an official business, a resident is prohibited from entering the MOC. Residents wishing to enter the MOC on unofficial business must obtain prior permission from the NSGB CO.
- c. Residents may engage in appropriate social interactions with migrants in public areas or at public events. Residents will limit their interaction with migrants to matters relevant or pertinent to official NSGB or sponsor activities, or in the case of the migrant's employment, matters related to the migrant's authorized employment.
- d. Residents wishing to invite migrants to social events or recreational activities must request and receive permission from the NSGB CO, or his or her designated representative, prior to the event. Special permission is required to ensure that the host resident is aware of, and assumes responsibility for, compliance with all applicable rules regarding protected migrants and their interactions with residents, including any applicable rules regarding escorts, curfews, alcoholic beverages, communication, and computer access, and that the invitation is consistent with the operational and security requirements of this facility at the time of the event.
- e. Residents and visitors to the NSGB are prohibited from engaging in intimate social or sexual relations with migrants. Failure to comply with this rule constitutes a serious threat to the security of the facility, general security, good order and discipline. Violations will result in punitive or administrative consequences for both the migrants and the residents involved.
- f. Residents are prohibited from selling, distributing or transporting alcoholic beverages to migrants. Residents are also prohibited from purchasing alcoholic beverages for migrants.
- g. Any person or group wishing to donate an item or items to a migrant(s) must do so through the migrant's sponsor or the sponsor's designee.
- h. Residents may only purchase goods such as handicrafts from migrants through authorized channels. The migrant sponsor will oversee all monetary transactions between migrants and residents.
- i. Residents are prohibited from communicating any information, by any means, to any person or agency on behalf of any migrant, without obtaining the prior approval of the NSGB CO. This prohibition includes, but is not limited to, photographic, videographic or audio recordings of/about migrants.
- j. No resident shall direct migrants to carry out, or assist migrants in carrying out, any unauthorized or criminal activity, including but not limited to espionage, subversion, sabotage or terrorism.

k. Cualquier residente que presencie lo que cree ser un migrante involucrado en actos de espionaje, subversión, sabotaje o terrorismo, reportará inmediatamente el incidente al Personal del Departamento de Seguridad y/o Inteligencia de la NSGB.

10. Violaciones.

a. Investigaciones. Informes de violaciones de esta instrucción serán profundamente investigados y todas las investigaciones serán coordinadas a través de la NSGB. De acuerdo con los protocolos de seguridad e investigación, las autoridades de la NSGB notificarán al patrocinador del migrante o migrantes bajo investigación lo antes posible.

b. Migrantes

(1) Procedimientos Administrativos. Para mantener el buen orden y la disciplina a bordo de la NSGB, los migrantes que violen esta instrucción pueden estar sujetos a medidas administrativas mediante uno de los siguientes métodos o procedimientos:

(a) Departamento del Estado. DoS, a través de su designado, puede retirar su apoyo al migrante protegido para acceso o negar la participación de migrantes protegidos en actividades que se consideren necesarias. Todas las demás acciones administrativas están a la discreción del CO de la NSGB.

(b) CO de la NSGB. Antes de imponer medidas administrativas, el CO de la NSGB notificará al migrante sobre la intención del comandante de imponer una acción administrativa, la naturaleza de la mala conducta alegada, prueba fehaciente, el acuerdo firmado por el migrante para cumplir con esta instrucción, y la opción para que el asunto sea referido al IMAF. Si el migrante no elige que el asunto sea referido al IMAF, él o ella pueden hacer una declaración por escrito, o presentar pruebas y testigos al CO de la NSGB para su consideración. El CO de la NSGB considerará cualquier declaración o evidencia proporcionada, y consultará con el TRP, antes de imponer medidas administrativas.

(c) Foro Administrativo Interagencial para los Migrantes. Los migrantes que decidan que el asunto se determine a través del IMAF están sujetos a las disposiciones de la referencia (b). Una audiencia del IMAF estará compuesta por un Magistrado del IMAF, un Secretario de Admisiones del IMAF, el Foro Interagencial, y el acusado.

(2) Formas de acción administrativa. Las medidas administrativas adoptadas por el CO de la NSGB o el IMAF pueden incluir, pero no se limitan a, lo siguiente:

(a) La reducción, suspensión o revocación de cualquier privilegio otorgado en esta instrucción, incluyendo la revocación del acceso a las costas de Sotavento y Barlovento y la restricción a la habitación o MOC "A".

(b) Unidad de Vivienda Especial (SHU). El SHU es una unidad de segregación utilizada sólo para aislar a un migrante que ha sido determinado presentar un peligro para sí

k. Any resident who witnesses what he/she believes to be a migrant engaged in acts of espionage, subversion, sabotage or terrorism shall immediately report the incident to NSGB Security and/or Intelligence Department Personnel.

10. Violations.

a. Investigations. Reports of violations of this instruction will be thoroughly investigated and all investigations will be coordinated through the NSGB. In accordance with security and investigation protocols, NSGB authorities will notify the sponsor of the migrant(s) under investigation as soon as possible.

b. Migrants.

(1) Administrative Procedures. To maintain good order and discipline aboard NSGB, migrants who violate this instruction may be subject to administrative action by one of the following methods or procedures:

(a) Department of State. DoS, through its designee, may withhold support to the protected migrant for access or deny participation of protected migrants in activities deemed necessary. All other administrative actions are at the discretion of the NSGB CO.

(b) CO of the NSGB. Before imposing administrative action, the NSGB CO shall notify the migrant of the commander's intention to impose administrative action, the nature of the alleged misconduct, the evidence, the migrant's signed agreement to comply with this instruction, and the option for the matter to be referred to the IMAF. If the migrant does not elect to have the matter referred to the IMAF, he or she may make a written statement or present evidence and witnesses to the NSGB CO for consideration. The NSGB CO will consider any statement or evidence provided, and consult with the TRP, before imposing administrative measures.

(c) Inter-Agency Administrative Forum for Migrants. Migrants who choose to have the matter determined through the IMAF are subject to the provisions of reference (b). An IMAF hearing will be composed of an IMAF Magistrate, an IMAF Intake Clerk, the Interagency Forum and the accused individual.

(2) Forms of administrative action. Administrative actions taken by the NSGB CO or the IMAF may include, but are not limited to, the following:

(a) The reduction, suspension, or revocation of any privilege granted in this instruction, including revocation of access to Leeward and Windward Shores and restriction to habitation or MOC "A".

(b) Special Housing Unit (SHU). The SHU is a segregation unit used only to isolate a migrant who has been determined to present a danger to himself or herself or any other migrant or person on board the

mismo o cualquier otro migrante o persona a bordo de la NSGB, o que presenta una amenaza de cualquier tipo a la seguridad de la base. La cantidad de tiempo que un migrante va a pasar en el SHU será determinada por el CO de la NSGB, en consulta con el DoS y DHS o el IMAF.

c. Residentes de la Base Militares y Civiles No Migrantes. Los residentes militares y civiles no migrantes que violen esta instrucción pueden estar sujetos a sanciones penales o administrativas según sea determinado como apropiado por el CO de la NSGB.

(1) Para el personal militar, esta instrucción es una orden punitiva legal aplicable bajo el Código Uniforme de Justicia Militar.

(2) Para todo otro personal a bordo de la instalación, incluyendo, pero no limitado a, empleados civiles del gobierno, contratistas (ciudadanos estadounidenses y extranjeros) y dependientes del personal militar, las violaciones de esta instrucción resultarán en una acción criminal o administrativa por la instalación hasta, e incluyendo, la expulsión de la instalación.

d. Deber de reportar. Todos los residentes, migrantes y patrocinadores de migrantes y sus designados tienen el deber de reportar cualquier violación observada de esta instrucción al personal de seguridad, inteligencia u operaciones de la NSGB.

11. Contacto con los medios de comunicación. Todos los contactos o eventos con los medios de comunicación, incluyendo informes, serán coordinados por el Oficial de Asuntos Públicos de la NSGB en coordinación con el DoS y el DHS. Se prohíbe el contacto o la comunicación entre los representantes visitantes de los medios de comunicación y los migrantes sin autorización del CO de la NSGB y el patrocinador del migrante.

12. Responsabilidades

a. CO Arrendatario y Oficiales al Cargo (OIC). COs Arrendatarios y los OICs se asegurarán de que todos los militares, empleados y residentes patrocinados por su comando y los visitantes asignados a su comando estén al tanto de esta instrucción y de su aplicabilidad.

b. Oficial de operaciones. El Oficial de Operaciones de la NSGB supervisará la implementación de esta instrucción.

c. Oficial de Operaciones Migratorias. El MOLO de la NSGB es el punto de contacto principal para asuntos relacionados con las operaciones de migrantes, y es el enlace a DoS, DHS y otras agencias. El MOLO de la NSGB asesorará al Oficial de Operaciones y el CO de la NSGB sobre cuestiones de acceso a la base, coordinará las repatriaciones, y facilitará reuniones interagenciales mensuales sobre operaciones migratorias.

d. Patrocinadores de Migrantes y Sus Designados. Los patrocinadores de los migrantes y sus designados son socios de la NSGB en la implementación de esta instrucción. Los patrocinadores y la NSGB mantendrán en todo momento líneas abiertas de comunicación entre sí. De acuerdo con las responsabilidades descritas en la referencia (a), los patrocinadores de los migrantes y sus designados mantendrán un cerco perimetral de seguridad alrededor del MOC. En todo momento,

NSGB, or who presents a threat of any kind to the security of the base. The amount of time a migrant will spend in the SHU will be determined by the NSGB CO, in consultation with DoS and DHS or the IMAF.

c. Base Residents Military and Non-Migrant Civilians. Military residents and nonmigrant civilians who violate this instruction may be subject to criminal or administrative penalties as determined appropriate by the NSGB CO.

(1) For military personnel, this instruction is a lawful punitive order enforceable under the Uniform Code of Military Justice.

(2) For all other personnel aboard the installation, including but not limited to civilian government employees, contractors (U.S. citizens and foreign nationals), and dependents of military personnel, violations of this instruction will result in criminal or administrative action by the installation up to and including removal from the installation.

d. Duty to Report. All residents, migrants and migrant sponsors and their designees have a duty to report any observed violations of this instruction to NSGB security, intelligence, or operations personnel.

11. Media Contact. All media contacts or events, including reports, will be coordinated by the NSGB Public Affairs Officer in coordination with DoS and DHS. Contact or communication between visiting media representatives and migrants is prohibited without authorization from the NSGB CO and the migrant's sponsor.

12. Responsibility.

a. CO Lessee and Officers in Charge (OICs). COs Tenant COs and OICs will ensure that all military, employees, and residents sponsored by their command and visitors assigned to their command are aware of this instruction and its applicability.

b. Operations Officer. The NSGB Operations Officer will oversee the implementation of this instruction.

c. Migrant Operations Officer. The NSGB MOLO is the primary point of contact for issues related to migrant operations, and is the liaison to DoS, DHS, and other agencies. The NSGB MOLO will advise the NSGB Operations Officer and NSGB CO on base access issues, coordinate repatriations, and facilitate monthly interagency meetings on migrant operations.

d. Migrant Sponsors and their Designees. Migrant sponsors and their designees are partners with NSGB in the implementation of this instruction. Sponsors and NSGB will at all times maintain open lines of communication with each other. Consistent with the responsibilities described in reference (a), migrant sponsors and their designees will maintain a perimeter security fence around the MOC. At all times,

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