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## Lawsuit: Federal Prisoners With "Unpopular Political Beliefs" Isolated, Abused

William Fisher | Friday 21 January 2011



If you are unlucky enough to be doing time at one of the federal government's two "experimental prisons" - which it calls Communications Management Units (CMUs) - you are categorically banned from any physical contact with visiting friends and family, including babies, infants and minor children. You may not hug, touch or embrace your children or spouses during visits.

Severe restrictions are also placed on your access to phone calls and letters, as well as work and educational opportunities. Transfers

to the CMU are not explained, nor are prisoners told how to earn release into less restrictive confinement, as there is no review process. Lawyers say that because these transfers are not based on facts or discipline for infractions, a pattern of religious and political discrimination and retaliation for prisoners' lawful advocacy has emerged.

Two federal prisons are being used as CMUs and overwhelmingly hold Muslim prisoners and prisoners with unpopular political beliefs. Opponents charge they are practicing religious profiling, retaliation and arbitrary punishment.

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These are the principal allegations in a lawsuit filed by the Center for Constitutional Rights (CCR) against US Attorney General Eric Holder and the US Department of Justice (DOJ). The DOJ houses the US Bureau of Prisons (BOP), which runs the two units, one in Terre Haute, Indiana, the other in Marion, Illinois. Plaintiffs are five current and former prisoners and the spouses of two prisoners.

Now comes information on another major shortcoming: Inadequate medical care.

In a letter, a CMU inmate describes a situation that other legal experts confirm persists throughout the prison system. The inmate, whose name is being withheld from this article for his protection, explains:

"I was waiting to be called for the surgery. Today at 6 AM the guard asked me if I had eaten today (I already did by then) because I was to be taken out for a procedure. I told him that I already ate and that I should have been told no later than last night about the procedure. Besides, I told them that I was put on daily aspirin, which must be stopped for several days before any procedure. The guard understood that there was a mix up.

"An hour later when the nurse (an LPN) came, I was explaining to her that there must have been a mistake. She was stern, less than respectful and less than understanding. She immediately snapped at me: 'So you are refusing the colonoscopy.'

"What colonoscopy?' I asked. 'There must be a misunderstanding. I am to go for a hernia surgery.'

"No,' she said, 'my records show that you are to be locked up to be 'preped' [sic] for the colonoscopy.'

"Well, is there someone I can talk to and explain the situation,' I said.

"No,' she snapped. 'I am the only one here. If you want to talk to someone you have to wait until tomorrow,' she said. 'Meanwhile, you will have to sign this refusal form.'"

The prisoner's letter continues:

"You asked about my hernia. It does bother me that at times it is painful and uncomfortable. It limits my physical activities and exercises. I am unable to stay in one position for an extended period of time. I cannot bend or strain without feeling the discomfort. After my limited walk every day I feel the area numb. I look forward to being relieved of this hernia.

"Last night, they told me to be NPO after midnight for a procedure. This was after the morning fiasco which I briefed you about. Only to be told

two hours later that it was cancelled! I am still in limbo, not sure what these people are doing or what game they are playing with my health."

The prisoner asks:

"How would an intelligent reasonable professional mix colonoscopy with hernia repair? Instead of thanking me for correcting a potential danger and embarrassment for these people I am treated like a dog. I take it back, dogs are treated better. All this is done by a supposedly health professional who swore an oath of taking care of the sick.

"I frankly ... fear for my life and well being in this joint with characters like this one. I am unable to call her a nurse. I know nurses, I hired some, dealt with some and (was) treated by some. None is like this one. She would not have acted like this had her superiors been better than her. It is a culture of disrespect and abuse."

The inmate concludes:

"It is ironic that this happens when they told us that the JCAH (joint Commission on Accreditation of Hospitals) is coming soon to give accreditation to their health service!!!!!"

Joan Covici, a former longtime member of the Dallas ACLU board of directors and a nationally recognized champion of prisoners' rights, commented on this inmate's predicament.

She told us, "The man has to keep going through his unit's grievance process. It may not make a difference, since what he is experiencing is common throughout the nation. But, he must go into court with his own story AFTER he has exhausted all remedies."

She added, "Too many COs are TRAINED and INSTRUCTED to treat the incarcerated as dangerous and as liars - which many of them are. I believe that anyone incarcerated fairly and honestly is sick and probably unreliable and dangerous. Some COs understand this and act professionally, but many do not."

The CCR says that, "Despite the fact that their creation marked a dramatic change in BOP policy, [the CMUs] were opened without the required opportunity for public notice and comment."

But relatively little is known about what goes on inside the CMUs. Unlike conditions and practices at the military prison at Guantanamo Bay, Cuba, the CMUs have received virtually no attention from the mainstream media - print, television or radio. Nor has Congress shown any more than passing interest.

When the BOP announced the first CMU in 2007, they said its purpose was "to house inmates who, due to their current offense, conduct, or other verified information, require increased monitoring of communications with persons in the community to ensure the safe, secure and orderly running of BOP facilities and to protect the public."

But the CCR disputes that statement. "These units are an experiment in social isolation," said a CCR attorney. "People are being put in these extraordinarily restrictive units without being told why and without any meaningful review. Dispensing with due process creates a situation ripe for abuse; in this case, it has allowed for a pattern of religious profiling, retaliation and arbitrary punishment. This is precisely what the rule of law and the Constitution forbid."

The CCR says that upward of two-thirds of the prisoners confined there are Muslims - a figure that overrepresents the proportion of Muslim prisoners in BOP facilities by at least 1,000 percent. Many of the remaining prisoners have unpopular political views, including environmental activists designated as "ecoterrorists."

The CCR says most of those other prisoners appear to have been transferred to the CMU because of other protected First Amendment activities, such as speaking out on social justice issues or filing grievances in prison or court regarding conditions and abuse.

CCR attorneys say the outsized proportion of Muslims demonstrates that the CMUs were created to facilitate the segregation and restrictive treatment of Muslims based on the discriminatory belief that such prisoners are more likely than others to pose a threat to prison security.

According to the Bureau of Prisons, the 76 inmates housed in the isolation units are there to prevent them from furthering acts of terrorism. But civil liberties advocates say the extreme conditions in the CMUs amount to abuse and that the program violates the inmate's constitutional rights. The BOP says CMUs were set up after authorities discovered that some Islamic militants were able to send messages abroad from their prison cells.

The BOP claims that CMUs are designed to hold dangerous terrorists and other high-risk inmates, requiring heightened monitoring of their external and internal communications.

But, the CCR says, "Many prisoners are sent to these isolation units for their constitutionally protected religious beliefs, unpopular political views, or in retaliation for challenging poor treatment or other rights violations in the federal prison system. Unlike other prisoners in the federal system, CMU prisoners are categorically denied any physical contact with family members and are forbidden from hugging, touching or embracing their children, spouses or loved ones during visits. The CMUs are an experiment in social isolation."

Karin Friedemann, a Boston-based freelance journalist, writes, "Although the US government refuses to disclose the list of prisoners to the public, inmates include Enaam Arnaout, founder of Islamic charity Benevolence International Foundation; Dr. Rafil Dhafir, physician and founder of Iraqi charity Help the Needy; Ghassan Elashi, founder of Holy Land Foundation and CAIR Dallas; Randall Royer, Muslim civil rights activist; Yassin Aref, imam and Kurdish refugee; Sabri Benkahla, an American who was abducted the day before his wedding while studying in Saudi Arabia; and John Walker Lindh, an American convert to Islam who was captured in Afghanistan; plus some non-Muslim political activists."

She claims that "most of these prisoners were falsely accused of terrorist offenses and then imprisoned for lesser charges but given sentences meant for serious terrorism-related crimes."

Carmen Hernandez, president of the National Association of Criminal Defense Lawyers, reportedly told Friedemann, "The primary problem with the opening of [the CMUs] is that no one knows the criteria used to send the person imprisoned to that unit."

"What the prisoners have in common is that they were well disciplined, studious and often religious compared to those in the general prison population, they maintain strong commitments to various causes and for some reason the government wants to keep them separate, to restrict their communication with the outside world," she said.

Some observers think we may be one step further toward understanding why.

The reason is that when the BOP first inaugurated the CMUs, the public was not given the opportunity to learn about the program and comment on its soundness. CCR lawyers say that was a violation of federal law and one of the principal reasons for the CCR's lawsuit.

Now, they say, the BOP is making a late attempt to correct that omission by proposing a rule disclosing CMU policy. CCR says this is "an implicit acknowledgment that the units are unparalleled in the federal prison system and an admission that the BOP violated the law by operating the unique units secretly for more than three years."

"While we welcome the BOP's decision to finally comply with its legal obligations - albeit over three years too late - the proposed rule does not make these experimental isolation units constitutional," said CCR staff attorney Alexis Agathocleous.

"Our clients' experiences clearly demonstrate the abusive and arbitrary nature of the CMUs," she said, adding, "The proposed rule states that CMU prisoners, when possible, are provided a detailed explanation of the information that has led

to their designation. In reality, many prisoners have simply been told that their designation was based on 'reliable evidence.'"

Some prisoners' requests to be told the nature of this evidence have been denied, the CCR says. "Others have received an explanation for their designation that included factually incorrect information, with no opportunity for correction."

The CCR has little hope that the CMU issue will be settled out of court. Rachel Meeropol, a CCR staff attorney, told Truthout:

"The Bureau of Prison's inhumane Communications Management Units have been operating without oversight or fair process for over four years. Under the Bush administration, it was startlingly clear that Muslims and political activists were to be treated as threats to national security, irrespective of any wrongdoing. Sadly, this [the Obama] administration seems to have embraced that notion as well and continues to deny fundamental rights to CMU prisoners."

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