

*NEW YORK*

## 'Little Gitmo'

**When an upstate imam named Yassin Aref was convicted on a suspect terrorism charge, he was sent to a secretive prison denounced by civil libertarians as a Muslim quarantine.**

By Christopher S. Stewart Published Jul 10, 2011



(Photo: Will Waldron/Albany Times Union)

On August 4, 2004, Yassin Aref was walking along West Street in a run-down part of downtown Albany. It was about 11 p.m., and he had just finished delivering evening prayer at the storefront mosque around the corner, where he had been the imam for nearly four years. Caught up in his thoughts, he might not have noticed the car parked across from his two-story building if a man hadn't called out his name.

Aref instantly recognized the FBI agents inside the darkened vehicle. They had been monitoring him for years now, maybe longer. Sometimes they stopped and asked questions about his views on Saddam Hussein or the mosque. As part of Bush's war on terror, the FBI had been talking to other Muslims in Albany, too. When Aref climbed into the back seat, he figured that the agents simply wanted to talk some more. Instead, they told him he was under arrest.

It took a long time for this to settle in. Aref was silent as they drove to FBI headquarters, a fortlike concrete-and-glass building on the south side of town. The agency has spoken only vaguely about what happened when they questioned him, and there are no recordings, though Aref would later describe the time as the "hardest, darkest, and longest night of my life"—scarier, he said recently, than the hardships he and his wife suffered as Kurds in Saddam Hussein's Iraq.

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[Animal-Rights Activist Andrew Stepanian Talks About His Time Inside 'Little Gitmo'](#)

His hands and feet were chained. One of the agents spoke some Kurdish. Aref heard questions about terrorism, money laundering, a missile launcher. He refused a lawyer, believing that he had nothing to hide. "It is against my religion to lie," he told them. The interrogation lasted much of the night. He says he never heard specific charges. At some point they told him his house and mosque were being raided, and all he could think about was his wife and three children, who had arrived in Albany with him as U.N. refugees in 1999.

When morning broke, he was loaded into another car, bleary-eyed and weakened, and taken to the federal courthouse. As the vehicle moved through the streets, Aref was astonished by the sudden commotion. Helicopters swarmed overhead. There were scores of local and national news reporters, cameras angling to get his picture. He saw snipers.

During his three-week trial in 2006, he learned that he was the target of a controversial FBI sting, which involved a Pakistani informant with a history of crime. In the end, he was convicted of, among other things, conspiracy to provide material support to a terrorist organization and sentenced to fifteen years in prison. He spent weeks in solitary confinement, days shackled in different vehicles, which shuffled him from prison to prison. Time coalesced, became unrecognizable, until, in the spring of 2007, Aref landed at a newly created prison unit in Terre Haute, Indiana, that would change his life again. It already had a nickname: Little Gitmo.

Aref didn't know anything about Little Gitmo, or a Communication Management Unit (CMU), as it's formally called. Once a death-row facility where Timothy McVeigh was executed, the Terre Haute CMU was quietly opened by the Bush administration in December 2006 to contain inmates with links, in particular, to "terrorist-related activity." A year later, another unit opened in Marion, Illinois.

Although inmates and guards refer to CMUs as Little Gitmos, the comparison to Guantánamo is imprecise: The units are not detention centers, and the inmates inside have already been convicted of crimes in the U.S. legal system. But what differentiates CMUs from all other facilities in the U.S. are the prisoners. The Center for Constitutional Rights (CCR) estimates that 66 to 72 percent of them are Muslims, a staggering number considering that Muslims represent only 6 percent of the entire federal-prison population.

As of June, there are 82 men in the two CMUs, according to federal-prison officials, including a man convicted in the 1993 World Trade Center bombing, the American Taliban John Walker Lindh, and the lone survivor of an EgyptAir hijacking in 1985. All inmates are kept under 24-hour surveillance in near-complete isolation. “If the government has intelligence that links you to terrorist activity, then that’s something that the prison authority should be able to take into account,” says Andrew McCarthy, a former federal prosecutor and a senior fellow at the National Review Institute, in defense of the measures. “We give them an array of privileges that most other places in the world are shocked by.”

Legal activists agree that restrictive rules can be applied to high-security prisoners, but many in the CMUs, they say, are low-security inmates. One Muslim man was placed in a CMU for perjury, while another was locked up, in part, for violating U.S. sanctions by donating to a charity abroad without a license. According to CCR, many don’t fully know why they ended up in the segregated units or how they might appeal their placement. In the words of Kathy Manley, one of Aref’s defense attorneys, the CMUs are a “quarantine,” and Alexis Agathocleous, a lawyer at CCR, calls them “an experiment in social isolation.” “There is this story being told in this country now about the threat of homegrown terror and of radicalization related to Muslim prisoners, and the CMU is a story about law enforcement controlling that dangerous threat,” says Rachel Meeropol, a lawyer at CCR. “An allegation that someone is somehow connected to terrorism, without evidence and without an actual conviction [for terrorism], allows them to be treated in this whole different system of justice.”



The federal prison in Terre Haute, Indiana, where a Communication Management Unit is located.  
(Photo: AFP/Newscom)

To gather intelligence from CMU inmates, correspondence is combed through by a counterterrorism unit in West Virginia. Regular group prayer is prohibited, and communications must be in English unless there’s a live translator. Phone calls are limited to two fifteen-minute conversations a week (most maximum-security prisoners get 300 minutes a month). Immediate families of CMU inmates can visit only twice a month for a total of eight hours (general-population prisoners at Terre Haute get up to 49 hours of visits a month), and

those conversations are monitored, recorded, and conducted through Plexiglas. Physical contact is forbidden, a permanent ban not imposed on most violent felons in maximum-security prisons.

As a result, critics say, those familiar markers—family, language, and religious identity—are being stripped away. “This is more than just being cut off from the world,” says Nina Thomas, a psychologist-psychoanalyst at NYU who has studied the CMUs. “Inmates are being shut into a very narrow universe.”

While the stated purpose of the CMUs, according to prisons spokesperson Traci Billingsley, is to “protect the public,” Meeropol thinks that they “spread fear.” Shamshad Ahmad, a physics lecturer at the University of Albany and president of Aref’s mosque, says that CMUs “send a message that the whole justice system [is] geared to take revenge of the events of 9/11 on anyone belonging to the Muslim community”—a message that, essentially, any Muslim could become Aref.

And especially because Aref’s conviction is itself a matter of controversy, CCR has chosen the imam to become its lead plaintiff in a case against the CMUs, one of the major lawsuits, including the ACLU’s in Indiana, meant to challenge the units and change the way they operate. Along with five other plaintiffs, Aref now sits at the center of a civil-liberties battle against the prison system. To a growing number of supporters in Albany—who have rallied to get him out; have published his pre-CMU memoir, *Son of Mountains*; have raised money for his family—he is a symbol of the inequities Muslims still endure as collateral damage in the war on terror.

Aref was born in a mountain village in northern Iraq, where he lived through Saddam’s genocide on the Kurds and met his wife, Zuhur. They fled to Syria, where he finished his religious studies, worked at the office of the Islamic Movement of Kurdistan (IMK), and had three kids. Under a U.N. asylum program, the family learned in 1999 that they were going to Albany, a place the 29-year-old Aref had never heard of.

Although he couldn’t speak or understand much English, he managed to support his family as a hospital janitor for more than a year before he became the imam of Masjid As-Salam, the city’s only mosque. During his four years as imam, Aref regularly discussed his anti-Iraq War sentiments and grew to represent the spiritual voice of many Albany Muslims. “People hesitated to criticize the government publicly,” says Ahmad. “But he didn’t.”

It is believed that the FBI decided to target Aref in the summer of 2003, after the American military stormed an armed camp in Iraq and discovered a notebook with his name and number in it, along with the word *kak*, which the FBI translated as “commander” (the prosecution would later admit that the term actually translates to “mister”). The camp was alleged to be affiliated with Ansar al-Islam, a terrorist organization founded by Mullah Krekar, who was once a member of the IMK, where he had met Aref. Aref’s backers argue that the camp was filled with refugees and that the notebook could have belonged to anyone. Aref claims that he met Krekar only in passing and that he left for Albany long before the mullah founded Ansar al-Islam.

That Aref had a past connection to Krekar was perhaps enough to attract the FBI’s attention, though likely not enough to mount a legal case against him. So, working with expanded surveillance powers, the FBI went about setting up an operation.

Since 9/11, the FBI had begun relying more heavily on informants, under a controversial policy of

preemptive prosecution—taking down those thought to possibly become terrorists in the future. It has resulted in the conviction of more than 200 individuals, including four Muslims in Newburgh convicted of plotting to bomb two Bronx synagogues; a 19-year-old Somali charged with attempting to blow up a Christmas-tree-lighting ceremony in Portland, Oregon; and a man caught plotting an attack on Herald Square. “These types of operations have proven to be an essential law-enforcement tool in uncovering and preventing potential terror attacks,” Attorney General Eric Holder said at a dinner this winter in defense of the tactics.

Critics, however, point out that in many operations, it’s difficult to determine whether anyone is truly culpable—or inherently dangerous. And intentionally or not, it’s very easy to round up Muslims. “There is a massive ideological, military, and intelligence infrastructure committed to the domestic and international wars on terror. These wars depend on maintaining Muslims as the primary threat to national security,” says Amna Akbar, a senior research scholar at NYU’s Center for Human Rights and Global Justice. “The U.S. government seems to rely on widespread use of informants ... sending them into mosques and other community spaces without any concrete suspicion of criminal activity.”



Yassin Aref's wife with an Albany police officer the day after her husband's arrest.  
(Photo: Ron Antonelli/NY Daily News Archive/Getty Images)

In order to pursue Aref, the FBI employed a Pakistani informant named Shahed Hussain, known as Malik, the same informant later used in the Newburgh trial and a man once described by the defense in that case as “an agent provocateur who earned his keep by scouring mosques for easy targets.” Malik had made a deal to avoid years in jail and deportation for helping people cheat on driver’s-license exams. He was also arrested in Pakistan on a murder charge. The operation, scripted by the FBI, started with Mohammed Hossain, a Bangladeshi immigrant who owned a local pizzeria and helped found Aref’s mosque.

Over several months, Malik moved into Hossain’s life, bringing his kids toys and expressing interest in religion. Malik, who claimed to be working for the Islamic terrorist group Jaish-e-Mohammed, or JeM, eventually said he was buying a shoulder-firing missile launcher to kill then–Pakistani president Pervez Musharraf during a visit in New York City. To complete the purchase, he needed Hossain to launder \$50,000 for him. In return, Hossain, whose business was on the skids, would earn \$5,000.

Hossain then asked Aref to be the witness to the loan, a tradition in Islamic culture (as the only imam in Albany, Aref had notarized many loans). There were additional months of transactions where Aref documented Hossain’s loan payments to Malik. During those months, Malik would occasionally mention the missile, using the code word *chaudry*. The government argued that this was evidence that Aref knew about Malik’s terrorist connection, and the jury agreed. Aref was charged with ten of the 30 total counts, and the jury found him guilty of money laundering and supporting a known terrorist organization. “Did [Aref] actually engage in terrorist acts?” William Pericek, assistant U.S. Attorney, asked during a post-sentencing press conference. “Well, we didn’t have the evidence of that. But he had the ideology.”

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“Family, language, and religious identity are being stripped away.”

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To outside observers of the case, the details that emerged during the trial were troubling. The FBI testified that Aref knew the code word, linking him to the conspiracy, but according to recorded conversations, there was no evidence that either Malik or Hossain informed him of the term. And though Malik had shown a fake missile to Hossain, the FBI decided against showing it to Aref because they worried that he would be “spooked.”

The case, observers noted, ultimately lacked definitive evidence that Aref knew the true nature of the transaction, and the jury was directed to ignore the motives of the FBI’s investigation. As Judge Thomas J. McAvoy instructed them, “The FBI had certain suspicions, good and valid suspicions for looking into Mr. Aref, but why they did that is not to be any concern of yours.”

“I’m not only surprised that the jury convicted him, but I’m sure the judge was surprised too,” says Stephen Gottlieb, a professor at Albany Law School and author of *Morality Imposed: The Rehnquist Court and Liberty in America*. “They basically turned two decent men into criminals.”

Manley believes he lost on emotional grounds. “I think the fear got to [the jury]. They ended up convicting him out of fear that he might be some kind of shadowy bad guy.” Steve Downs, another member of Aref’s legal team, attributes it to what he calls “the Muslim exception.” The emotion and politics of 9/11 had, they argue, altered the threshold for what constituted reasonable doubt.

In the years since Aref’s trial, critics have identified a pattern. “A whole range of policing, prosecution, and incarceration policies seem to take as a starting point that Muslims pose a particularly uncontrollable threat meriting extreme and exceptional treatment by the government,” says Akbar. “Because national security has become an area in which the government is granted an extraordinary amount of deference, these policies are often allowed to stand without much scrutiny.”

After the jury reached a verdict, two local papers published editorials asking for leniency. The editors at the *Albany Times Union* called the case “unsettling,” with no clear answer to why the men were targeted, and wondered what lives Hossain and Aref would have “continued to lead if they had never been lured into a sting operation.”

The judge sentenced Aref to fifteen years and recommended a local federal prison. Instead, he was sent to the CMU, with little explanation, no hearing, and no obvious way to appeal.

The first time Aref wrote to me, in a heavily monitored e-mail exchange, he said, “I am not spending my time, time is spending me. My family’s situation is driving me insane and eating my patience.” His world was falling apart at the CMU. “It’s really hard for me to talk about what happened,” he wrote.

When Aref was sent to the Terre Haute CMU in May 2007, he was 37 years old. “I arrived to find a small Middle Eastern community,” he said. There were about twenty others inside. The idea of being called a terrorist sickened Aref. Every day he wondered why he was there, and he hoped someone would eventually

realize that a mistake had been made. “I don’t understand how the jury found me guilty,” he wrote at one point.

His cell unlocked at 6 a.m., and he could circulate through the small unit comprising a few dozen cells and a common room. At 9 p.m., he’d be locked in for the night. On occasion, he heard screaming, and one day he saw a grown man drop to the floor and begin uncontrollably shaking and sobbing. When Aref asked a nurse later what had happened, she told him, “It’s all fear and stress.”

A peculiar loneliness consumed him. As an imam, Aref was naturally social. He helped solve people’s problems and guide them through their tangled lives. But at Terre Haute, he became reticent, curled inside himself. It was hard to know whom to trust. The FBI was sending agents to the unit to ask questions, and new inmates came every few weeks or so.

All along, he felt his family drifting away. That one fifteen-minute phone call a week (a second call per week was added in January 2010) was never enough. What could you really say in fifteen minutes divided up among at least four people? He tried to be upbeat, avoiding talk of the CMU. With the kids, he spoke about school, a kind of dinner talk. When his wife got on, the reality of their separation was oppressive.

Zuhur “almost lost her mind,” as Aref put it. The case had turned her upside down. Worried about wiretaps, she had disconnected the Internet, TV, and phone. She didn’t have a job and relied on friends and the mosque to pay her rent and buy food. She rarely interacted with strangers, afraid that they might be informants setting her up.

Talking to Aref was a project that required a friend to lend a cell phone to the family on the days he called. And when he spoke to Zuhur, she mostly cried. In the four years that he has been at the CMU, she has cried during every single call.

One of the hardest things was thinking about his young daughter, Dilnia. She was born while Aref was in jail. All he was to her was an abstract concept. “Whenever anyone asks her, ‘Where is your daddy?’ she will point or run to the phone and say, ‘That is my daddy,’” Aref said.

His two boys visited that first summer. With surveillance cameras zeroing in on them, it was difficult to be intimate. Salah was 10, Azzam 7. As Aref spoke through the Plexiglas, every word, every gesture was being mined for information.

His demeanor changed dramatically when his boys stepped away and Downs stepped in. Downs had made the two-day car trip with the kids from Albany. “They abuse me,” Aref said. When Downs asked him to explain, Aref wouldn’t. Then suddenly the meeting was terminated. According to Downs, a guard falsely claimed that he was using a pen “as a secret recording device.”

“I’m convinced that they understood I was trying to get info about the CMU,” Downs says. “And they did what [the CMU] was set up to do—prevent information [about the CMU] from getting out.”

The entire family arrived in a minivan the next summer, in 2008. It had been roughly four years since they’d all been together. But seeing his 2-year-old girl on the other side of the glass gave Aref tremendous pain. She didn’t recognize him.

The family spent a total of four hours together, and all seemed well until Zuhur suddenly snapped. In front of the kids, she made an announcement: She wanted to go back to Kurdistan. She felt her safety was at risk in America, even more than in the region from which she had fled.

Aref didn't want to argue. A part of him understood. "I am not dead in order for them to forget me," he said to me, "and not really alive to benefit them." That was the last time he saw his family. They didn't visit again. Zuhur wouldn't let them.

On March 27, 2009, at about 4 a.m., a guard entered Aref's cell and told him to pack. He was being transferred to the second CMU, at the state penitentiary in Marion, Illinois, which had opened a year before. Until recently, Marion had been one of the nation's only supermax facilities, replacing Alcatraz in 1963.

The move came at a particularly fraught moment for the CMUs. When President Obama came into office in 2009, many hoped the units would be shut down. The Bureau of Prisons wouldn't say if the new administration had reviewed the units, but they remained open, and their expansion soon inspired a fierce legal battle. In the summer of 2009, the ACLU's National Prison project filed a lawsuit on behalf of an inmate that disputed the legality of the creation of the units, among other things. Soon after, the ACLU of Indiana filed another lawsuit, about the restrictions on Muslim prayer.

In the meantime, "balancers," as CMU guards call them, were reportedly blended into the population—environmental activists, sexual predators, bank robbers, people who, prison officials claimed, "recruit and radicalize"—in order to address the criticism that CMUs were housing only Muslims. The Bureau of Prisons says it doesn't use race or religion to decide placement, and it rejects claims of adding balancers, though Muslim inmates continue to be in the majority.

In April 2010, CCR, with Aref, filed its suit, challenging the constitutionality of the place: the harsh restrictions on phone calls and visits, the ban on physical contact, the alleged absence of due process, and cited growing evidence suggesting that prisoners were being targeted for their religious and political beliefs.

To CCR, Aref's case was especially poignant. "Aref came to the United States as a refugee and was then subject to a dubious conviction," says Agathocleous. "Despite the fact that he engaged in no violence, that the prosecution acknowledged at trial that it was not seeking to prove he was a terrorist, and that his conduct in prison was spotless, he has been subject to these incredibly restrictive conditions at the CMU ... It just doesn't make any sense."

In Marion, Aref's single cell was just as small as the former one, and his family was just as far away. But something had changed. He began to dread the phone calls with his family. "For many prisoners, the phone call is a big relief, and they get strength from it," he said. "But each time I call and hear my wife crying and I learn what my children are going through, it stresses my mind."

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"I am not spending my time, time is spending me."

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After a motion for a new trial was dismissed and the appeal to his original case was rejected, a part of him became resigned to the situation, friends say.

Then on April 13, I received a surprise e-mail from Aref. “How are you doing?” he asked. And then he told me the news. “For real, I am no longer in CMU!”

“My father is a very religious man,” Aref’s 15-year old daughter, Alaa, says one recent summer night. “He has a beard and wears Arab clothes and has an accent. But when you talk to him”—she pauses as if conjuring her father—“you know he’s not a terrorist.” She has trouble saying this word. *Terrorist*. It doesn’t sound right in her mouth. And she tries it another way. “Baba didn’t hate anyone.”

On this June night, Aref’s four kids sit barefooted on the carpet of a classroom on the second floor of the Central Avenue mosque in Albany, where their father was once the imam. Some of the doors are still broken from the FBI raid almost eight years ago.

The two boys, Salah, 14, and Azzam, 11, sit on either side of Alaa. Dilnia, who is now 5, sits off to the side, reading a book with a family friend. Zuhur stayed home. “She sometimes is depressed and doesn’t go out,” Alaa says.

Friends of the family say that Zuhur still talks about returning to Iraq, though she doesn’t have the money for a plane ticket or travel documents. Her crying hasn’t abated. When she does leave the house, she occasionally visits Aref’s lawyers and asks, “What did Yassin do wrong?” or “When is he coming home?”

Since being placed in a general-population prison, Aref remains cautious. Without much explanation, he was moved out of the CMU, where he had been separated from the world for four years, and he could just as easily be moved back, like officials had done recently to an environmental activist named Daniel McGowan. Aref’s lawyer speculates that my requests to visit Aref in a CMU and the CCR lawsuit had placed pressure on prison officials, which might have had something to do with his sudden transfer out. (It’s a tactic that’s worked for CMUs in the past. With one of the ACLU lawsuits, a plaintiff was moved from a unit to a general-population prison and the case was dismissed.)

Last April, four years after the first CMU opened and days following CCR’s suit, the Bureau of Prisons began a public discussion of the units, a move, advocacy groups say, the prison system was legally obligated to make before the CMUs ever opened. Many of the comments that flooded in focused on the lack of meaningful appeal—that inmates are stuck in the units—and in particular, how the units were ruining the men and their families.

Once Aref entered the general-population prison, he assumed that things would get better—that he would be able to embrace his wife and hug his kids, and that he might even be transferred again to a prison closer to home.

But so far, none of that has changed.

The FBI investigation and the CMUs have so alienated his family, especially Zuhur, who has still not visited her husband since his transfer. She hasn’t allowed the kids to go, either—though supporters are working to

set up a trip for this summer.

None of Aref's kids know exactly why their father is in jail.

Azzam, playing with the yellow gum in his mouth, says, "Money laundering or something, right?"

"It was an FBI sting," Alaa says. "They kind of set him up for missiles or something."

Salah, who looks most like his father in his long white shirt, nods.

"I miss him," Alaa says. Turning to Steve Downs, who has been sitting quietly against the wall, she asks, "When my father gets out, they can deport him right away?"

Downs nods. Aref will be deported the day he is released from prison. Among them, Dilnia is the only American citizen, which means that all the others could be deported on that day too, or shortly after. Zuhur was recently denied citizenship.

Alaa will turn 18 before her father is released, and she could apply for citizenship. If it's granted, she could become the guardian of the others.

I ask whether what's been done to their father makes them angry. The boys are silent. "I'm upset," Alaa says. "But my dad taught us never to hate."