

EXHIBIT 87

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: <u>Awan, Khalid</u>	<u>50959-054</u>	<u>CMU/I</u>	<u>USP MARION</u>
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A - REASON FOR APPEAL

The BOP is abusing its 18 months (unwritten) policy regarding clear conduct transfers. Though it has been established over the years that a prisoner will not be submitted for a transfer unless, and until he has 18 months of clear conduct, the BOP is manipulating that policy. This prisoner was placed in the CMU at Terre Haute, Indiana on November, 30, 2007. After completing 16 months of clear conduct there, this prisoner was transferred to the CMU in Marion, Illinois where he told that he must complete another 18 months of clear conduct. This form of treatment suggest that the BOP in manipulating its very own policy to take a prisoner from one CMU to another only ensuring the prisoner equality in the sense that they will "receive" a transfer. I wish to (1) be transferred to a general population and, (2) that the 16 months of clear conduct I had at the CMU Terre Haute, Indiana be counted here in Marion leaving me with 60 days of needed clear conduct. to be transferred.

4.27.09
DATE

Khalid Awan
SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE _____ REGIONAL DIRECTOR _____
 If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.
 FIRST COPY: REGIONAL FILE COPY CASE NUMBER: 534233-81

Part C - RECEIPT

CASE NUMBER: _____
 Return to: _____
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION
 SUBJECT: _____
 DATE _____ SIGNATURE, RECIPIENT OF REGIONAL APPEAL _____

**U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office**

**Regional Administrative Remedy Appeal
Part B - Response**

Administrative Remedy Number: 534233-R1

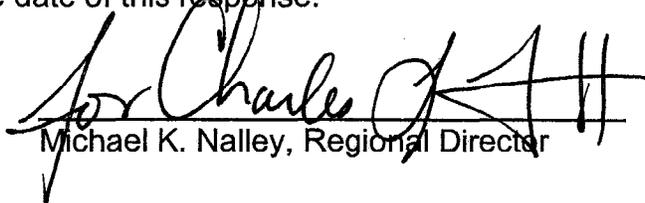
This is in response to your Regional Administrative Remedy Appeal received in this office on May 4, 2009, in which you allege you were inappropriately transferred from the Communication Management Unit (CMU) in Terre Haute, Indiana, to the CMU at the United States Penitentiary (USP) in Marion, Illinois. You request removal from the CMU and assignment to a general population unit.

We have reviewed your appeal and the Warden's response dated April 20, 2009. The Bureau of Prisons has the authority to make designation assignments they deem appropriate and necessary to ensure the safe and orderly operation of its facilities and the protection of the public. You were designated to the CMU at the USP in Marion, Illinois, to allow additional monitoring of your communication. This is due, in part, to your conviction for Conspiracy to Provide Material Support for Terrorism, Material Support to Terrorists, and Money Laundering. Accordingly, your designation to the CMU is deemed appropriate. Program Statement 5100.08, Inmate Security Designation and Custody Classification, states an inmate must ordinarily serve 18 months at a facility with clear conduct. As indicated, you will be reviewed for a transfer utilizing the criteria set forth by agency policy. You have not provided any evidence to substantiate your allegations staff have acted contrary to agency policy. Accordingly, the institution's decision is supported.

Based on the above information, your Regional Administrative Remedy Appeal is denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

6/9/09
Date


Michael K. Nalley, Regional Director

DAR 11 see Dept's

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Khalid Awan	59059-054	CMU/I	USP Marion
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST

The questions were NOT answered. (1) Is the time spent at the CMU-Terre Haute, Indiana a continuation of the time now running here in the CMU-Marion in regards to the 18 months clear conduct, or is the Bureau trying to say that the transfer from one CMU to another starts a new time toll? And (2) What is the time limitation at CMU Marion before one can be transferred?

4/13/09
DATE

Khalid Awan
SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

CASE NUMBER: _____

Part C- RECEIPT

Return to:			
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

**U.S. Department of Justice
Federal Bureau of Prisons**

**Administrative Remedy
Part B - Response**

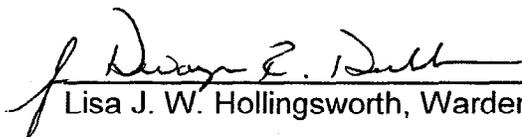
Admin Remedy Number: 534233-F1

This is in response to your Request for Administrative Remedy received April 14, 2009, wherein you request to know how long you must remain at the United States Penitentiary (USP) Marion, Illinois, before being considered for a transfer. Additionally, you request to know if the time you spent at your previous institution counts toward this time frame.

Every inmate designated to USP Marion must complete 18 months of clear conduct prior to being considered for a transfer.

Accordingly, this response to your Request for Administrative Remedy is for informational purposes only. In the event you are not satisfied with this response and wish to appeal, you may do so within 20 calendar days of this response by submitting a BP-230(13) to the Regional Director, Federal Bureau of Prisons, North Central Regional Office, Gateway Complex, Tower II, 8th Floor, 400 State Avenue, Kansas City, Kansas 66101-2492.

4-20-09
Date


Lisa J. W. Hollingsworth, Warden

Administrative Remedy - Informal Resolution Marion, Illinois

Inmate's Name: KHALID AWAN Reg. No. 50959054 Unit: CMLU Date: 4-8-09

NOTICE: You are advised that prior to filing a Request for Administrative Remedy [BP-9], you **MUST** attempt to informally resolve your complaint through your counselor. Please follow the three (3) steps listed below.

1. State your specific complaint: ON MARCH 16, 2009, I RECEIVED A RESPONSE ON MY C&P-OUT (C&P ATTACHED) FROM TERRE HAUTE CMLU CARE MANAGER FORTUNE, STATING THAT "INMATES MUST REMAIN IN THE CMLU FOR A MINIMUM OF 18 MONTHS WITH CLEAR CONDUCT PRIOR TO CONSIDERATION OF A TRANSFER" I WAS IN PROCESS OF BP-9, BUT IN A MEANWHILE, I WAS REMOVED/TRANSFERRED FROM TERRE HAUTE CMLU TO MARION CMLU.

2. State what efforts you have made to informally resolve your complaint: VERBALLY DISCUSSED TWICE WITH MR. WELCH AND MR. WILSON

3. State what resolution you request: ① I NEED TO KNOW THAT MARION CMLU DESIGNATION/TRANSFER IS THE CONTINUATION OF TERRE HAUTE CMLU OR ITS CONSIDER AS A NEW AND ANOTHER CMLU PLACEMENT.
② AND WHAT IS THE TIME LIMITATION OF MARION CMLU, CONSIDERATION OF A TRANSFER.

Inmate's Signature: [Signature] Date: 4/8/09

4. Correctional Counselor's Comments (Steps to Resolve): Any inmate which transfers to Marion must complete at least 18 months clear conduct prior to consideration for transfer.

Counselor's Signature: [Signature] Date: 4/9/09

Unit Manager's Review: [Signature] Date: 4/9/9

	Received by Counselor from inmate	Attempted informal with inmate by Counselor	BP-9 given to inmate	BP-9 Delivered to Admin. Remedy Clerk
Date	<u>4-8-09</u>			
Time	<u>1:30 PM</u>			
Counselor	<u>HR</u>			

Administrative Remedy Number 534233-A1
Part B - Response

You request to know whether period of clear conduct at previous prison apply toward 18-month period of clear conduct required before an inmate may be considered for a nearer release transfer.

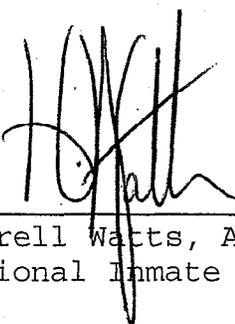
Our review of this matter reveals both the Warden and Regional Director have adequately addressed your concerns. No inmate is entitled to be designated to any particular prison, and inmates may be designated to or transferred to any prison for any or no reason. You are appropriately designated to the current prison. This prison is consistent with your security and custody requirements.

Program Statement 5100.08, Security Designation and Custody Classification Manual, provides "Nearer release transfers move the inmate closer to their legal residence or release destination, consistent with their security level. Inmates may be considered for a nearer release transfer only after serving 18 consecutive months of clear conduct in a general population." This period begins upon the arrival of an inmate to a particular prison. Periods of clear conduct prior to transfer do not carry over upon transfer. It is noted, however, that you did not maintain clear conduct at the previous prison as you received an incident report on March 2, 2009. As you have been advised, once you maintain clear conduct at the current prison for a period of 18 months, you may be considered for transfer to a prison which is nearer your release destination. Such transfer may only be considered if it is consistent with all other aspects of your designation, classification and programming scenario. You arrived at the current prison on March 26, 2009, so, presuming you maintain clear conduct, you may be considered for a nearer release transfer no sooner than September 26, 2010.

The issue that your transfer to the current prison was religious discrimination is not related to the clear conduct issue raised at the previous levels of this administrative remedy submission and will not be addressed in this response. You must first raise this issue at the institution and appeal the response thereto if you are dissatisfied.

Your appeal is denied.

October 26, 2009
Date



Harrell Watts, Administrator
National Inmate Appeals 

Bureau of Prisons.

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: Awan, Khalid 50959-054 CMU/T USP MARION
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A-REASON FOR APPEAL

This inmate is not arguing that Program Statement 5100.08 states that an inmate must "ordinarily" serve 18 months before being transferred, and that that 18 months be without incident reports. However, the BOP is in fact abusing its very own policy. This inmate was at the Communications Management Unit, Terre Haute, Indiana. He was there for over a year, but not 18 months. He, along with five other Muslims were transferred to the Communications Management Unit, Marion, Illinois in March, 2009. The bureau is suggesting that after a prisoner serves "just up to 18 months" he can be transferred from one CMU to another as if because they are located in different prisons that that suffices as a transfer. This manipulative treatment is discriminatory toward the Muslims, and does not honestly give a Muslim held in the CMUs the same opportunity as other prisoners in other institutions. For example, a inmate completing a program in a controlled unit isn't then transferred from one controll unit to another controll unit. This would mean that a prisoner in CMU is being subjected to serving 36 months clear conduct before being considered for transfer to another institution. I request I be transferred to general population.

6/23/09

DATE

SIGNATURE OF REQUESTOR

[Handwritten Signature]

Part B-RESPONSE

RECEIVED

JUL 07 2009

Administrative Remedy Section
Federal Bureau of Prisons

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 534233-A1

Part C-RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

BP-DIR-11
April 1982

EXHIBIT 88

**U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office**

**Regional Administrative Remedy Appeal
Part B - Response**

Admin Remedy Number: 500980-R1

This is in response to your Regional Administrative Remedy Appeal dated August 19, 2008, in which you allege your placement in the Communication Management Unit (CMU) is based on racial discrimination, and that you should not be classified as a member of a Security Threat Group (STG). You request a transfer, removal of the STG assignment, and expungement of all documents related to your placement in the CMU.

We have reviewed your appeal and the Warden's response dated August 13, 2008. The Bureau of Prisons has the authority to make designation assignments they deem appropriate and necessary to ensure the safe and orderly operation of its facilities, and the protection of the public. You were designated to the CMU to allow additional monitoring of your communication. This is due, in part, to the information as outlined in Attachment A, which outlines your involvement in the recruitment and radicalization of other inmates through extremist, violence oriented indoctrination methods. Your STG assignment is deemed appropriate, as is your designation to the CMU.

Based on the above information, your Regional Administrative Remedy Appeal is denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

Date

Michael K. Nalley, Regional Director

Administrative Remedy No. 500980-A1
Part B - Response

This is in response to your Central Office Administrative Remedy in which you appeal the decision by Bureau of Prisons Officials to designate you to the Communications Management Unit (CMU). You request removal from the CMU.

The Bureau of Prisons has the authority to make housing unit and institution assignments that support the security and orderly operation of the institution. The CMU was established to house inmates that due to their current offense, offense conduct, or other information, required increased monitoring of communication between inmates and persons in the community in order to protect the safety, security, and orderly running of the institution and the public.

You have been appropriately designated to the CMU. Staff will continue to monitor your case during regularly scheduled program reviews. We therefore concur with the responses provided. Accordingly, your appeal is denied.

Date

Harrell Watts, Administrator
National Inmate Appeals

██████████ * ADMINISTRATIVE REMEDY UPDATE * 09-12-2008
PAGE 001 OF 001 10:15:02

REGNO: 00281-000 NAME: TWITTY AVON FUNC: REP
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D03-022L RCV OFC: NCR
REMEDY ID: 500980-R1 SUB1: 14ZS SUB2: DATE RCV: 08-25-2008
UNT RCV.: CMU QTR RCV.: D03-022L FACL RCV: THA
UNT ORG.: CMU QTR ORG.: D03-022L FACL ORG: THA
EVT FACL.: THA ACC LEV: THA 2 NCR 1 RESP DUE: WED 09-24-2008
ABSTRACT.: CMU PLACEMENT
STATUS DT: 09-12-2008 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: EXT Y/N: N RCT: P EXT: DATE ENTD: 08-26-2008
REMARKS...:

CURRENT TRACKING DATA
DATE DUE DEPARTMENT TO DATE ASSN TRK TYPE DATE RETURNED
SUN 09-14-2008 CORR PGM 08-26-2008 INV 09-12-2008

G0000 TRANSACTION SUCCESSFULLY COMPLETED

ADMINISTRATIVE REMEDY COORDINATOR

n. fields for

DATE COPIES MAILED: SEP 12 2008

DISPOSITION

(PLEASE CIRCLE ONE)

DENY

GRANT

INFORMATION ONLY

PARTIALLY GRANTED

IMPROPER SUBJECT MATTER

PREVIOUSLY GRANTED

WITHDRAWN AT INMATE REQUEST

REPETITIVE OF PREVIOUS APPEAL - DENY

OTHER

500980-R1

PROTECTED - TWITTY

ADMINISTRATIVE REMEDY UPDATE * 08-26-2008 12:43:08

REGNO: 00281-000 NAME: TWITTY AVON FUNC: ADD
RSP OF...: THA UNT/LOC/DST: CMU QTR.: D03-022L RCV OFC: NCR
REMEDY ID: 500980-R1 SUB1: 14ZS SUB2: DATE RCV: 08-25-2008
UNT RCV.: CMU QTR RCV.: D03-022L FACL RCV: THA
UNT ORG.: CMU QTR ORG.: D03-022L FACL ORG: THA
EVT FACL.: THA ACC LEV: THA 2 NCR 1 RESP DUE: WED 09-24-2008
ABSTRACT.: CMU PLACEMENT
STATUS DT: 08-25-2008 STATUS CODE: ACC STATUS REASON:
INCRPTNO.: EXT Y/N: N RCT: N EXT: DATE ENTD: 08-26-2008
REMARKS...:

CURRENT TRACKING DATA
DATE DUE DEPARTMENT TO DATE ASSN TRK TYPE DATE RETURNED
SUN 09-14-2008 CORR PGM 08-26-2008 INV

SEP 12 2008

G0000 TRANSACTION SUCCESSFULLY COMPLETED

11820915

RESPONSE REVIEW

1. AUTHOR:
2. ADMINISTRATOR: SMS
3. REGIONAL COUNSEL:
4. EXECUTIVE ASSISTANT:
5. DEPUTY REGIONAL DIR:
FULL NAME DATE NOTES
[Handwritten signatures and dates: 9/5/08, 9-5-08, 7/8/08, 9/9/08, 9/11/08]

DISPOSITION (PLEASE CIRCLE ONE)
DENY GRANT INFORMATION PARTIALLY IMPROPER SUBJECT
ONLY GRANTED MATTER

PREVIOUSLY WITHDRAWN AT INMATE REPETITIVE OF PREVIOUS
GRANTED REQUEST APPEAL - DENY

OTHER

AUG 27 REC'D

U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Regional Administrative Remedy Appeal
Part B - Response

Admin Remedy Number: 500980-R1

This is in response to your Regional Administrative Remedy Appeal dated August 19, 2008, in which you allege your placement in the Communication Management Unit (CMU) is based on racial discrimination, and that you should not be classified as a member of a Security Threat Group (STG). You request a transfer, removal of the STG assignment, and expungement of all documents related to your placement in the CMU.

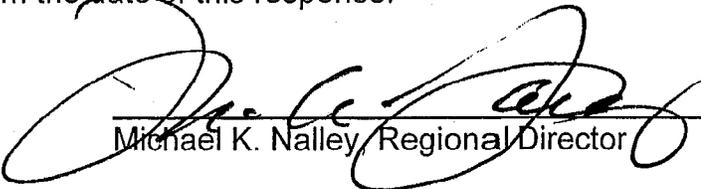
We have reviewed your appeal and the Warden's response dated August 13, 2008. The Bureau of Prisons has the authority to make designation assignments they deem appropriate and necessary to ensure the safe and orderly operation of its facilities, and the protection of the public. You were designated to the CMU to allow additional monitoring of your communication. This is due, in part, to the information as outlined in Attachment A, which outlines your involvement in the recruitment and radicalization of other inmates through extremist, violence oriented indoctrination methods. Your STG assignment is deemed appropriate, as is your designation to the CMU.

Based on the above information, your Regional Administrative Remedy Appeal is denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

Date

9/12/08


Michael K. Nalley, Regional Director

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: TWITTY AVON 00281-000 CMU FCI-TERRE HAUTE
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

My complaint is about the illegal paper bashing of the BOP staff membership that is being illegally inflicted upon me clearly because I am a Muslim. My request for administrative remedy against the actions of Warden, R. Martinez, at USP-Hazleton, is specifically clear, he is without doubt in the wrong and I have been without regard for law or what is proper and just wrongfully transferred to the Terrorist Communication Management Unit.
See attachment
Page 1.
8-19-08 Mr. Avon Twitty
DATE SIGNATURE OF REQUESTER

Part B - RESPONSE

SEE ATTACHED RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

SECOND COPY: RETURN TO INMATE

CASE NUMBER: 500980 A1

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL

and classified as an International Terrorist Associate/Terrorist.

This type of action is tantamount to the old lynch law of the racist past, there is without doubt a racist-crusader type of mentality in the mind's eye of some of the BOP staff towards the Muslim inmates, in fact some of the staff act as if the Muslim inmate is really a prisoner of Bureau of Prisons is their personal Guantanamo Bay. In actual fact when some of the staff enter into the CMU, they don't hide their vengefulness and act as if the purpose and mission of this unit is to degrade, demean and deprive the Muslims of their dignity and instill a sense of helplessness in us.

I request an commission of inquiry into this whole affair, this sort of routine is not an isolated incident occurring by one staff member rather, they are being committed by many different BOP staff members as if they have formed their own secret society within the Bureau of Prisons with a malicious motive in mind.

Attachment + Photo

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: TWITTY AVON 00281-000 CMU FCI - TERRE HAUTE
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - INMATE REQUEST On 5-21-97, Warden, R. Martinez, at USP Hazelton submitted a form 409.051, to the DSCC Administrator, requesting that I be transferred to the CMU at FCI Terre Haute under Code 323, Close Supervision. PS.P5100.08, Ch. 7, page 21 Transfer Codes states; "323 Close Supervision Case Transfer as a result of an investigation that indicates a safety, security, or escape risk. Includes verified and unverified protection cases." Program Statement P5100.08, Ch. 7, page 5 (4.) states of Code 323 transfers that "An act (s) of documented institution misconduct may result in an inmate's
6-30-08 see Attachment Mr. Avon Twitty
DATE Page 1. SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

SECOND COPY: RETURN TO INMATE

CASE NUMBER: 500980

CASE NUMBER

Part C - RECEIPT

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

BOP CMU 076100



transfer to another institution, normally of greater security, for disciplinary reasons." The form EMS-409.051, of Warden, R. Martinez, relied upon no documented institution misconduct pertaining to my alleged association with recruitment and radicalization of other inmates (b) (2) High to intimidate or coerce others (see section 3.). Rather, it falsely claimed that I received two incident reports while at USP-Hazleton (see section 2.). I received one and only one incident report at USP-Hazleton on 9-27-05, for laying on my bunk sleeping during the 3:30 P.M. count, see form BP-5288-052, No. 1386269, section 11. Description of Incident in my

Central File. * Special Note: A examination of my medical records reveal that I take prescribed allergy medications, and that I suffer from impaired hearing. This one incident of sleeping during the count does not meet the standard of an 323 Close Supervision Case, that would possibly justify my transfer to the CMU, or my being classified as an International Terrorist Associate, nor my designations as a member of a Security Threat Group. Therefore, I humbly request that 1.) I be transferred out of the CMU, to a regular prison within the region of my residence, 2.) that the International Terrorist Associate classification be removed, and 3.) the complete expungement of all documents related directly or indirectly to my designation as a member of a Security Threat Group.

Sincerely
 Mr. Avon Twitty

EMS-409.051 REQUEST FOR TRANSFER/APPLICATION OF MANAGEMENT VARIABLE CDFRM
SEP 2006
U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

From: (Warden/Superintendent) <i>[Signature]</i> A. Martinez, Warden	Facility USP Hazelton, West Virginia	Date 5/21/07
Inmate's Name Twitty, Avon	Register No. 00281-000	REVIEWED, EXCISED AND JUN 04 2008

To: (Designations and Sentence Computation Center Administrator)
DSCC Administrator / ATTN: DSCC Designator

X Transfer to: FCI Terre Haute CMU, Indiana Code 323, Close Supervision
Apply Management Variable(s)

RELEASED BY NCRO LEGAL OFFICE

Update Management Variable Expiration Date. (New Date):

1. Inmate's Medical Status

Inmate Twitty is assigned to regular duty status with medical restrictions: Orthopedic shoes, and No Weight Lifting Over 15 lbs. He is cleared to work in food service. There is no medical or psychological information to preclude this inmate from transfer.

2. Institution Adjustment (Include a brief description of the inmate's adjustment during this period of incarceration with emphasis on recent adjustment.)

Inmate Twitty arrived at this facility on August 31, 2005. He has received two incident reports since his arrival at USP Hazelton and is considered to be a management problem due to his involvement in the recruitment and radicalization of other inmates. He has established an average rapport with both inmates and staff since his arrival at USP Hazelton.

3. Rationale for Referral. (For Mariel Cuban Detainees, include availability of community resources and status of INS review process in this section.)

Inmate Twitty arrived at USP Hazelton on August 31, 2005.

(b)(2)High

(b)(2)High

Twitty is to be designated and transferred to the Communications Management Unit (CMU) located at FCI Terre Haute, IN. Reliable evidence indicates his incarceration conduct has included association with recruitment and radicalization of other inmates (b)(2)High to intimidate or coerce others. (b)(2)High Based on the aforementioned information, the unit team is requesting a Close Supervision (Code 323) to FCI Terre Haute CMU, Indiana.

4a. Parole Hearing Scheduled: Yes No

b. If yes, when February 2009

5. Note any past or present behavior and/or management/inmate concerns.

Inmate Twitty has established an average rapport with both staff and inmates. He is considered to be a management problem at USP Hazelton due to his involvement in the recruitment and radicalization of other inmates. He has received two, three hundred level incident report since his arrival at USP Hazelton.

6. BP337/BP338 Discrepancies.

After a careful review of SENTRY data, one discrepancy was found between the Security Designation Data Form and the Custody Classification Form. On inmate Twitty's Security Designation Data Form, he is scored with a no history of Violence. His Custody Classification Form has been updated to reflect a violence level of more than fifteen years serious due to him seriously assaulting another inmate at USP Lewisburg in 1986. There are no other discrepancies between the two forms.

Staff have checked the following SENTRY Programs to ensure that they are correct and current:

Inmate Profile
Inmate Load Data
Sentence Computation

CIM Clearance and Separatee Data
Custody Classification Form
Chronological Disciplinary Record

Prepared by: (Case Manager)

J. Davis/ *[Signature]*

Unit Manager Signature

Christopher A. Greiner/ *[Signature]*

If the transfer is approved, a Progress Report will be completed prior to transfer.
*For Mariel Cuban Detainees - Staff have entered the CMA Assignment of "CRP RV DT" to indicate the need for a Cuban Review Panel Hearing. Summary of form to be completed by the Staff Date.

(This form may be replicated via W

FOI EXEMPT

replaces EMS-409 of DEC 99

Remedy No.: 500980-F2

FCC Terre Haute, IN

PART B - RESPONSE

This is in response to your Administrative Remedy receipted on July 30, 2008, wherein you request to be transferred from the Communication Management Unit (CMU), that the International Terrorist Associate classification be removed, and the complete expungement of all documents related directly or indirectly to your designation as a member of a Security Threat Group.

A review of your request indicates you were transferred to the Communication Management Unit (CMU) at the Federal Correctional Complex in Terre Haute, Indiana on May 30, 2007. Your transfer to the CMU allows greater management of your communication with persons in the community through more effective monitoring of your telephone use, written correspondence, and visiting. Your communication by these methods may be limited as necessary to allow effective monitoring. Your general conditions of confinement in this unit may also be restricted as necessary to provide greater management of your communications. Your transfer to this unit, by itself, has no effect on the length of your incarceration. You will continue to earn good-conduct sentence credit in accordance with Bureau policy.

As stated in Attachment A form: "Reliable evidence indicates your incarceration conduct has included involvement in recruitment and radicalization efforts of other inmates through extremist, violence, oriented indoctrination methods to intimidate or coerce others."

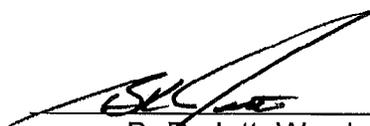
Due to this evidence, you will remain in the CMU for a minimum of 18 months. Additionally, all documentation in your central file will be maintained.

Therefore, your request for Administrative Remedy is denied.

If you are dissatisfied with this response, you may appeal to the Regional Director, Federal Bureau of Prisons, Gateway Complex, Tower II, 8th Floor, 4th & State Ave., Kansas City, Kansas 66101. Your appeal must be received within 20 calendar days of the date of this response.

8.13.08

Date



B.R. Jett, Warden

Delivered to inmate
on 8/18/08
(Montune)

EXHIBIT 89

CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

Page 1

UNITED STATES DISTRICT CIRCUIT
FOR THE DISTRICT OF COLUMBIA

-----X

YASSIN MUHIDDIN AREF
AND
DANIEL MCGOWAN
AND
ROYAL JONES
AND
KIFAH JAYYOUSI
VS.

CIVIL ACTION NO.
1:10-CV-0053-BJR

ERIC HOLDER, ATTORNEY GENERAL
OF THE UNITED STATES
AND
CHARLES E. SAMUELS, DIRECTOR OF
THE FEDERAL BUREAU OF PRISONS (BOP)
AND
D. SCOTT DODRILL, ASSISTANT DIRECTOR,
CORRECTIONAL PROGRAMS DIVISION, FEDERAL
BUREAU OF PRISONS
AND
LESLIE S. SMITH, CHIEF,
COUNTERTERRORISM UNIT, FEDERAL
BUREAU OF PRISONS
AND
FEDERAL BUREAU OF PRISONS

-----X

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER
ORAL DEPOSITION OF PAUL KELLY
WEDNESDAY AUGUST 21, 2013

REPORTED BY:
Kelly D. Brentz, CSR, RPR
Ref. No.: 10015

1 paragraph, the notice states, "A review of inmates for
2 continued CMU designation will be conducted by the unit
3 team in connection with regularly scheduled program
4 reviews."

5 We have talked a bit about program reviews.
6 Did this notice change the policy with regard to how
7 inmates were considered for transfer?

8 A. With respect to the CMU?

9 Q. Right.

10 A. Yes. As I stated earlier, before, we were
11 using a classification and designations manual for all
12 inmates, which is applicable to all the inmates. I
13 believe this memo clarified the policy or procedures as
14 it pertained just to the CMU inmates.

15 Q. Prior to this notice being posted, were program
16 reviews used to determine -- or let me rephrase.

17 Prior to this notice, did the unit team
18 consider CMU placement in program reviews?

19 A. Prior to this notice, we informed the inmates
20 they needed -- and this is what we had before that -- to
21 have 18 months -- as I recall, 18 months of clear
22 conduct. That being said, that was on their initial
23 team, so the inmates that were there were provided that
24 information, that they needed 18 months of clear conduct.
25 So it wasn't until this memorandum came out that we would

1 conduct this at each scheduled program review.

2 Q. And what was the -- at what frequency were
3 program reviews conducted?

4 A. Beforehand?

5 Q. Well, yes.

6 A. Every six months, I believe.

7 Q. So the standard for review then became six
8 months?

9 A. Yes.

10 Q. Do you know who decided to change the policy so
11 CMU designation was considered every six months instead
12 of 18 months of good conduct?

13 A. As I stated earlier, the memorandum came from
14 the assistant director of correctional programs.

15 Q. Who was that?

16 A. I don't recall who that was at the time.

17 Q. Where would that person be based?

18 A. At the central office in Washington, D.C.

19 Q. Do you know when it was decided to introduce
20 this new program review policy?

21 A. I don't recall. I remember getting the
22 memorandum and posting it on the board -- the bulletin
23 board.

24 Q. Do you know why this new policy was enacted?

25 A. No, I would be speculating.

1 A. And as I stated earlier, we were just the
2 beginning process of a -- of a -- like a threefold
3 process, so to speak. So as much as possible, we would
4 be able to utilize the five criteria.

5 Q. Okay. But was it your understanding that the
6 reason -- or was it your understanding that the first
7 step in this process was to determine whether the reasons
8 for CMU placement -- the original reasons for CMU
9 placement still existed?

10 A. I don't believe we could have fully done that,
11 I mean, based on -- there may have been information
12 concerning their original placement that I may not have
13 been privy to or my staff were not privy to. So as I
14 stated earlier, we had to make an assessment based on the
15 information that we had.

16 In looking at that -- at the original
17 placement, you know, we would look at the -- if they
18 received any incident reports, if they had been, you
19 know, identified as some kind of recruiter or somebody
20 who would radicalize another inmate to their belief sect,
21 that's -- that's how I would interpret that.

22 Q. What do you mean by a "recruiter"?

23 A. Inmates whether -- whatever their -- somebody
24 who would get somebody to follow their belief sect or
25 what their ideologies were and convince them to come over

1 What do you understand the phrase "additional
2 information to be considered includes whether the
3 original rationale for CMU designation has been
4 mitigated" to mean? And if you would like, I can give
5 you a specific example.

6 A. Yeah, that would be fine.

7 Q. So I'm thinking again about a circumstance
8 where the original reason for CMU designation was a
9 conviction for a terrorism-related offense. If that's
10 the original reason for CMU designation, how would that
11 rationale ever be mitigated?

12 A. In going back to that, as I stated earlier, I
13 believe it's mitigated when the individual who was
14 convicted of a terrorist offense, using your example, no
15 longer participated or -- participated or believed in
16 that group's ideologies anymore.

17 Q. How do you go about determining whether an
18 individual continues to believe in certain ideologies?

19 A. I will utilize Sovereign Citizens; for example,
20 one of their tools that they use is as a tax defier, and
21 if they continued to file fraudulent taxes, that would be
22 where we would look at and say, okay, he's continuing in
23 those actions.

24 Q. Another phrase in here is -- is that you look
25 to whether the inmate continues to present a risk. The

EXHIBIT 90



Federal Bureau of Prisons
U.S. Penitentiary
Terre Haute, IN 47808

Date: November 30, 2006
Subject: Operation & Security of
the Communication
Management Unit (D-Unit
- FCC Terre Haute)

INSTITUTION SUPPLEMENT

1. **PURPOSE:** This supplement establishes guidelines and procedures for operation and security of the Communication Management Unit (CMU) in D-Unit, FCC Terre Haute, Indiana.

The CMU is established to house inmates who, due to their current offense of conviction, offense conduct, or other verified information, require increased monitoring of communication between inmates and persons in the community in order to protect the safety, security, and orderly operation of Bureau facilities, and protect the public.

The CMU is a self-contained general population housing unit where inmates reside, eat, and participate in all educational, recreational, religious, visiting, unit management, and work programming within the confines of D-Unit. Additionally, the unit contains a range of cells dedicated to segregated housing of those inmates in need of being placed in administrative detention or disciplinary segregation status.

2. **ADMISSION & ORIENTATION / CLASSIFICATION AND REVIEWS:** The Unit Manager is responsible for administering the Admission and Orientation program (A&O) in compliance with national policy. The purpose of the program is to familiarize each inmate with the unit staff, unit procedures, expected behavior, and programs available. All items on the A&O checklist will be covered and utilized for verification of participation. As part of A&O, D-Unit inmates will receive a copy of this Institution Supplement and an A&O Handbook.

Classification and reviews of D-Unit inmates will occur according to national policy. Additionally, within five calendar days of arrival, D-Unit inmates will be provided a **"NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT"** form indicating the reasons for their placement in the unit. A blank copy of the form is included with this Institution Supplement as Attachment "A."

3. **CONTACT WITH PERSONS IN THE COMMUNITY:** The purpose of the CMU in D-Unit is to provide increased monitoring of communication of the inmates assigned to it. By operating a self-contained housing unit, staff may adequately regulate and monitor all communications between inmates and persons in the community. All contact between D-Unit inmates and persons in the community may

occur according to national policy, with necessary adjustments indicated herein. **Under no circumstances will privileged attorney-client communication be monitored, as prohibited by national policy.**

(a) Written General Correspondence. All incoming and outgoing written general correspondence must be reviewed by staff prior to delivery to the inmate or further processing to the post office.

(b) Telephone Communication. All telephone communication between inmates and persons in the community (except properly placed, unmonitored legal calls) will be:

- (1) conducted using monitored ITS phone lines;
- (2) be live-monitored by staff;
- (3) be subject to recording by staff; and
- (4) occur in English-only (by both the inmate and community call-recipient) unless previously scheduled for and conducted through simultaneous translation monitoring.

Persons for whom an inmate requests placement on the approved telephone list must complete the **"Acknowledgment of Conditions for Telephone Contact with Inmates in the Communication Management Unit, FCC Terre Haute,"** form included with this Institution Supplement as Attachment "B," as proof of their acknowledgment and acceptance of these conditions. Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In the event of terminated calls, inmates may be subject to disciplinary action, and the person may be removed from the inmate's approved telephone list.

In no event will the frequency or duration of telephone calls placed by D-Unit inmates be limited to less than one telephone call per month (28 C.F.R. § 540.100(b)) of at least three minutes duration (28 C.F.R. § 540.101(d)). Unmonitored legal calls are not affected, and will continue to be managed according to national policy.

(c) Visiting. All visiting between inmates and persons in the community (except properly scheduled, unmonitored legal visits) will be:

- (1) conducted using non-contact facilities (i.e., secure partitioned rooms, telephone voice contact);
- (2) be live-monitored by staff;
- (3) be subject to recording by staff; and

THX-5270.07A

Page 3

(4) occur in English-only (by both the inmate and visitor) unless previously scheduled for and conducted through simultaneous translation monitoring.

Persons for whom an inmate requests placement on the approved visiting list must complete the "**Acknowledgment of Conditions for Visiting with Inmates in the Communication Management Unit, FCC Terre Haute,**" form included with this Institution Supplement as Attachment "C," as proof of their acknowledgment and acceptance of these conditions. Monitored visiting where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. Ordinarily, visiting will be scheduled to occur on weekdays for two-hour periods.

4. **HOUSING CONDITIONS / UNIT PROGRAMS / SERVICES**: D-Unit is a self-contained general population housing unit where inmates reside, eat, and participate in all educational, recreational, religious, visiting, unit management, and work programming within the confines of D-Unit. All national policies apply to administration of D-Unit, except as otherwise modified in this supplement as necessary to effect the unit's mission of increased monitoring of communications, and pursuant to the Warden's authority to make the necessary changes to protect the safety, security, and good order of the facility, or to protect the public.

(a) Cell Assignments. D-Unit inmates will ordinarily be housed in double bunked cells. Additionally, the unit contains a range of cells dedicated to segregated housing of those inmates in need of being placed in administrative detention or disciplinary segregation status. Cells #8-13 are designated as segregation housing for D-Unit inmates placed in administrative detention status or disciplinary segregation status.

(b) Health Services. Health Services staff will provide sick call in the unit four days a week (Mondays, Tuesdays, Thursdays and Fridays). Medications will be delivered and/or administered in the unit twice daily. Inmates may request to be seen by a physician in the unit's medical examination room. Specialized services may be provided in the institution's main health services units as needed, under conditions which ensure D-Unit inmates' lack of contact with non-D-Unit inmates.

(c) Mental Health Services. Psychology staff will provide D-Unit inmates an initial psychological assessment within 14 days of arrival in the unit for new commitments and within 30 days for

transfers. Mental health services thereafter will occur according to national policy. Inmates may request to be seen by a psychology staff member in the unit's medical examination room.

(d) Meals. All inmate meals will be served and consumed in the unit dining area.

(e) Education / Recreation Services. National education policies will be implemented in D-Unit. Inmates will ordinarily be permitted to leave their cells and participate in activities in the unit daily from 6:00am to 9:15pm, except during counts.

Leisure and law library services will be provided to inmates daily. Photocopies may be obtained by submitting a Request to Staff to the law librarian or the Unit Team.

Inmates will be provided table games such as chess, checkers and cards. Hobbycraft opportunities will also be provided.

There are four televisions available in the unit common areas for viewing. Movies will be shown using closed-circuit televisions.

The inside recreation rooms will contain various recreation activities to include handball, stationary biking, stair-stepping machines, and walking. No exercise equipment will be permitted in outside recreation areas.

(f) Religious Services. National religious services policies will be implemented in D-Unit. All communication with religious services providers from the community will be monitored as indicated in Section 3 of this Institution Supplement, depending on the means of communication used.

(g) Personal Property. National personal property policies will be implemented in D-Unit. Inmates are allowed to maintain up to three cubic feet of legal material in their cell. Temporary additional space for active litigation material may be requested from the Unit Manager.

(h) Commissary / Trust Fund Operations. National commissary and trust fund operation policies will be implemented in D-Unit. Each inmate will be afforded the opportunity to purchase allowable items from the commissary if funds are available in the inmate's commissary account. Commissary purchase forms will be issued on Tuesdays of each week, and after completion of the forms they will be forwarded to the commissary for processing by COB Wednesdays. The commissary items will be delivered to the

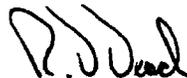
THX-5270.07A
Page 5

unit by commissary staff on Thursdays of each week. Any special purchases (personal radios, etc.) must be approved by the Unit Manager.

(i) Sanitation. D-Unit inmates are responsible for sanitation of their living areas. Unit orderly job assignments will be made by the Unit Manager. Inmate showers will be available daily. Clean, serviceable clothing will be issued to each inmate upon his arrival to the unit. Unit laundry service will be available for issued clothing on Mondays, Wednesday, and Fridays. D-Unit inmates are responsible for laundering their own personal clothing. Barber services in D-Unit will be conducted within the unit. Inmates should submit an inmate request to staff at least one week in advance of the desired time for a haircut.

(j) Work Assignments. Work assignments will include orderlies for unit sanitation, food service, laundry and recreation, and will be assigned by the Unit Manager.

5. **ADMINISTRATIVE REMEDY PROGRAM:** You may appeal your transfer to D-Unit, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. §§ 542.10 through 542.19, and corresponding policy. A member of your Unit Team will provide you with the necessary form upon request.



R.V. Veach, Warden

DISTRIBUTION

Warden
Division Heads
Department Heads
President AFGE Local 720

NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate Name (Last, First, Middle):	Register Number:
Warden (print and signature):	Institution:

NOTICE: This notice informs you of your transfer to a Federal Bureau of Prisons (Bureau) facility that allows greater management of your communication with persons in the community through more effective monitoring of your telephone use, written correspondence, and visiting. Your communication by these methods may be limited as necessary to allow effective monitoring. Your general conditions of confinement in this unit may also be restricted as necessary to provide greater management of your communications. Your transfer to this unit, by itself, will have no effect on the length of your incarceration. You will continue to earn good-conduct sentence credit in accordance with Bureau policy.

Your transfer to this facility under these conditions is based on the following specific information:

Based on this information, your transfer to this facility for greater communication management is necessary to the safe, secure, and orderly operation of Bureau institutions, or protection of the public. Your continued designation to this facility will be reviewed regularly by your Unit Team under circumstances providing you notice and an opportunity to be heard, in accordance with the Bureau's policy on Classification and Program Review of Inmates.

OPPORTUNITY TO APPEAL TRANSFER DECISION - You may appeal this transfer decision, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. §§ 542.10 through 542.19, and corresponding policy. A member of your Unit Team will provide you with the necessary form upon request.

INSTRUCTIONS TO STAFF - Provide the inmate a copy of this form and complete the following information documenting delivery.

Staff Member Name and Position (printed):	Staff Member (signature):	Date Issued:
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**Acknowledgment of Conditions for
Telephone Contact Inmates in the Communication Management Unit,
FCC Terre Haute**

_____, _____, an inmate housed in the CMU
(Inmate Name) (Reg. No.)

at the Federal Correctional Complex (FCC), Terre Haute, Indiana, requests your name be placed on his approved telephone list.

As a condition of being placed on this inmate's approved telephone list, you agree to the following conditions:

- (1) All telephone communication between you and the inmate will be subject to monitoring and recording by Bureau of Prisons staff;
- (2) Your telephone conversation with the inmate will occur in English-only, unless previously scheduled for, and conducted through, simultaneous translation monitoring; and
- (3) Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved telephone list.

Signature

Date Signed

Printed Name

Phone Number

Acknowledgment of Conditions for
Visiting with Inmates in the Communication Management Unit,
FCC Terre Haute

_____, _____, an inmate housed in the CMU
(Inmate Name) (Reg. No.)

at the Federal Correctional Complex (FCC), Terre Haute, Indiana, requests your name be placed on his approved visiting list.

As a condition of being placed on this inmate's approved visiting list, you agree to the following conditions:

- (1) All communication between you and the inmate during the visit will be subject to monitoring and recording by Bureau of Prisons staff;
- (2) Your conversations with the inmate during the visit will occur in English-only, unless previously scheduled for, and conducted through, simultaneous translation monitoring; and
- (3) Monitored conversations where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved visiting list.

Signature

Date Signed

Printed Name

EXHIBIT 91



U.S. Department of Justice Number: THX-5270.07A
Federal Bureau of Prisons Date: May 9, 2008
U.S. Penitentiary Subject: Operation & Security of
Terre Haute, IN 47808 the Communication Management
Unit (D-Unit - FCI Terre Haute)

INSTITUTION SUPPLEMENT

1. **PURPOSE:** This supplement establishes guidelines and procedures for operation and security of the Communication Management Unit (CMU) in D-Unit, FCI Terre Haute, Indiana.

The CMU is established to house inmates who, due to their current offense of conviction, offense conduct, or other verified information, require increased monitoring of communication with persons in the community in order to protect the safety, security, and orderly operation of Bureau facilities, and protect the public.

The CMU is a self-contained general population housing unit where inmates reside, eat, and participate in all educational, recreational, religious, visiting, unit management, and work programming within the confines of D-Unit. Additionally, the unit contains a range of cells dedicated to segregated housing of those inmates in need of being placed in administrative detention or disciplinary segregation status.

2. **ADMISSION & ORIENTATION / CLASSIFICATION AND REVIEWS:** The Unit Manager is responsible for administering the Admission and Orientation program (A&O) in compliance with national policy. The purpose of the program is to familiarize each inmate with the unit staff, unit procedures, expected behavior, and programs available. All items on the A&O checklist will be covered and utilized for verification of participation. As part of A&O, D-Unit inmates will receive a copy of this Institution Supplement and an A&O Handbook.

Classification and reviews of D-Unit inmates will occur according to national policy. Additionally, within five calendar days of arrival, D-Unit inmates will be provided a "NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT" form indicating the reasons for their placement in the unit. A blank copy of the form is included with this Institution Supplement as Attachment "A."

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indicated herein. Under no circumstances will privileged attorney-client communication be monitored, as prohibited by national policy.

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- (3) be subject to recording by staff; and
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In no event will the frequency or duration of telephone calls placed by D-Unit inmates be limited to less than one telephone call per month (28 C.F.R. § 540.100(b)) of at least three minutes duration (28 C.F.R. § 540.101(d)). Unmonitored legal calls are not affected, and will continue to be managed according to national policy.

© **Visiting.** All visiting between inmates and persons in the community (except properly scheduled, unmonitored legal visits) will be:

- (1) conducted using non-contact facilities (i.e., secure partitioned rooms, telephone voice contact);
- (2) be live-monitored by staff;
- (3) be subject to recording by staff; and
- (4) occur in English-only (by both the inmate and visitor) unless previously scheduled for and conducted through simultaneous translation monitoring.

Persons for whom an inmate requests placement on the approved

visiting list must complete the "Acknowledgment of Conditions for Visiting with Inmates in D-Unit, FCI Terre Haute," form included with this Institution Supplement as Attachment "C," as proof of their acknowledgment and acceptance of these conditions. Monitored visiting where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and being conducted through simultaneous translation monitoring. Ordinarily, visiting will be scheduled to occur on weekdays for two-hour periods.

4. HOUSING CONDITIONS / UNIT PROGRAMS / SERVICES: D-Unit is a self-contained general population housing unit where inmates reside, eat, and participate in all educational, recreational, religious, visiting, unit management, and work programming within the confines of D-Unit. All national policies apply to administration of D-Unit, except as otherwise modified in this supplement as necessary to effect the unit's mission of increased monitoring of communications, and pursuant to the Warden's authority to make the necessary changes to protect the safety, security, and good order of the facility, or to protect the public.

(a) Cell Assignments. D-Unit inmates will ordinarily be housed in double bunked cells. Additionally, the unit contains a range of cells dedicated to segregated housing of those inmates in need of being placed in administrative detention or disciplinary segregation status. Cells #8-13 are designated as segregation housing for D-Unit inmates placed in administrative detention status or disciplinary segregation status.

(b) Health Services. Health Services staff will provide sick call in the unit seven days a week. Medications will be delivered and/or administered in the unit twice daily. Inmates may request to be seen by a physician in the unit's private examination room. Specialized services may be provided in the institution's main health services units as needed, under conditions which ensure D-Unit inmates' lack of contact with non-D-Unit inmates.

© Mental Health Services. Psychology staff will provide D-Unit inmates an initial psychological assessment within 14 days of arrival in the unit. Mental health services thereafter will occur according to national policy. Inmates may request to be seen by a psychology staff member in the unit's private examination room.

(d) Meals. All inmate meals will be served and consumed in the unit dining area.

(e) Education / Recreation Services. National education policies will be implemented in D-Unit. Inmates will be permitted to leave their cells and recreate on the unit daily from 6:00am to 9:15pm, except during counts.

Leisure and law library services will be provided to inmates daily. Photocopies may be obtained by submitting a Request to Staff to the law librarian or the Unit Team.

Inmates will be provided table games such as chess, checkers and cards. Hobby craft opportunities will also be provided.

There are four televisions available in the unit common areas for viewing. Movies will be shown using closed-circuit televisions.

The inside recreation rooms will contain various recreation activities to include handball, stationary biking, stair-stepping machines, and walking. No exercise equipment will be permitted in outside recreation areas.

(f) Religious Services. National religious services policies will be implemented in D-Unit. All communication with religious services providers from the community will be monitored as indicated in Section 3 of this Institution Supplement, depending on the means of communication used.

(g) Personal Property. National personal property policies will be implemented in D-Unit. Inmates are allowed to maintain up to three cubic feet of legal material in their cell. Temporary additional space for active litigation material may be requested from the Unit Manager.

(h) Commissary / Trust Fund Operations. National commissary and trust fund operation policies will be implemented in D-Unit. Each inmate will be afforded the opportunity to purchase allowable items from the commissary if funds are available in the inmate's commissary account. Commissary purchase forms will be issued on Tuesdays of each week, and after completion of the forms they will be forwarded to the commissary for processing by COB Wednesdays. The commissary items will be delivered to the unit by commissary staff on Thursdays of each week. Any special purchases (personal radios, etc.) must be approved by the Unit Manager.

(I) Sanitation. D-Unit inmates are responsible for sanitation of their living areas. Unit orderly job assignments will be made by the Unit Manager. Inmate showers will be available daily. Clean, serviceable clothing will be issued to each inmate upon his arrival to the unit. Unit laundry service will be available for issued clothing on Mondays, Wednesday, and Fridays. D-Unit inmates are responsible for laundering their own personal clothing. Barber services in D-Unit will be conducted within the unit. Inmates should submit an inmate request to staff at least one week in advance of the desired time for a haircut.

(j) Work Assignments. Work assignments will include orderlies for unit sanitation, food service, laundry and recreation, and will be assigned by the Unit Manager.

5. **ADMINISTRATIVE REMEDY PROGRAM:** You may appeal your transfer to D-Unit, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. §§ 542.10 through 542.19, and corresponding policy. A member of your Unit Team will provide you with the necessary form upon request.

6. **RESPONSIBILITY:** Communication Management Unit (CMU) Unit Manager is responsible for the annual update and review of this Institution Supplement.

B. R. Jett, Warden

H. J. Marberry, Complex Warden

DISTRIBUTION

Warden
Division Heads
Department Heads
President AFGF Local 720

NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate Name (Last, First, Middle):	Register Number:
Warden (print and signature):	Institution:

NOTICE: This notice informs you of your transfer to a Federal Bureau of Prisons (Bureau) facility that allows greater management of your communication with persons in the community through more effective monitoring of your telephone use, written correspondence, and visiting. Your communication by these methods may be limited as necessary to allow effective monitoring. Your general conditions of confinement in this unit may also be restricted as necessary to provide greater management of your communications. Your transfer to this unit, by itself, will have no effect on the length of your incarceration. You will continue to earn good-conduct sentence credit in accordance with Bureau policy.

Your transfer to this facility under these conditions is based on the following specific information:

Based on this information, your transfer to this facility for greater communication management is necessary to the safe, secure, and orderly operation of Bureau institutions, or protection of the public. Your continued designation to this facility will be reviewed regularly by your Unit Team under circumstances providing you notice and an opportunity to be heard, in accordance with the Bureau's policy on Classification and Program Review of Inmates.

OPPORTUNITY TO APPEAL TRANSFER DECISION - You may appeal this transfer decision, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. §§ 542.10 through 542.19, and corresponding policy. A member of your Unit Team will provide you with the necessary form upon request.

INSTRUCTIONS TO STAFF - Provide the inmate a copy of this form and complete the following information documenting delivery.

Staff Member Name and Position (printed):	Staff Member (signature):	Date Issued:
		BOP CMU 001768

Acknowledgment of Conditions for
Telephone Contact with Inmates
in D-Unit, FCI Terre Haute

_____, _____, an inmate housed in D-Unit
(Inmate Name) (Reg. No.)

at the Federal Correctional Institution (FCI), Terre Haute, Indiana,
requests your name be placed on his approved telephone list.

As a condition of being placed on this inmate's approved telephone list,
you agree to the following conditions:

- (1) All telephone communication between you and the inmate will be subject to monitoring and recording by Bureau of Prisons staff;
- (2) Your telephone conversation with the inmate will occur in English-only, unless previously scheduled for, and conducted through, simultaneous translation monitoring; and
- (3) Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and being conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved telephone list.

Signature

Date Signed

Printed Name

Phone Number

Acknowledgment of Conditions for
Visiting with Inmates in D-Unit,
FCI Terre Haute

_____, _____, an inmate housed in D-Unit
(Inmate Name) (Reg. No.)

at the Federal Correctional Institution (FCI), Terre Haute, Indiana,
requests your name be placed on his approved visiting list.

As a condition of being placed on this inmate's approved visiting list, you
agree to the following conditions:

- (1) All communication between you and the inmate during the visit will be
subject to monitoring and recording by Bureau of Prisons staff;
- (2) Your conversations with the inmate during the visit will occur in
English-only, unless previously scheduled for, and conducted through,
simultaneous translation monitoring; and
- (3) Monitored conversations where either party speaks in non-English will
be immediately terminated by the staff monitor unless previously
scheduled and being conducted through simultaneous translation
monitoring. In such cases, inmates may be subject to disciplinary
action, and you may be removed from the inmate's approved visiting
list.

Signature

Date Signed

Printed Name

EXHIBIT 92



U.S. Department of Justice
Federal Bureau of Prisons
U.S. Penitentiary
Marion, IL 62959

Institution Supplement

OPI: Communication Management Unit
NUMBER: MAR-5270.07A
DATE: March 20, 2008
SUBJECT: Operation & Security of the
Communication Management Unit
(I Unit)

1. **PURPOSE AND SCOPE** This Institution Supplement establishes guidelines and procedures for the operation and security of the Communication Management Unit (CMU) in I Unit, at the United States Penitentiary, Marion, Illinois.

The CMU is established to house inmates who, due to their current offense of conviction, offense conduct, or other verified information, require increased monitoring of communication between inmates and persons in the community in order to protect the safety, security, and orderly operation of Bureau facilities, and protect the public.

The CMU is a self-contained general population housing unit where inmates reside, eat, and participate in all educational, recreational, religious, unit management, and work programming within the confines of I Unit. Additionally, the unit contains a block of cells located on B Range which are dedicated to segregated housing of those inmates in need of being placed in administrative detention or disciplinary segregation status.

2. **DIRECTIVES AFFECTED**

A. Directives Referenced

P.S. 5270.07, Inmate Discipline & Special Housing Units (December 29, 1987)

B. Directives Rescinded

3. **RESPONSIBILITY AND AUTHORITY**

A. ADMISSION & ORIENTATION / CLASSIFICATION AND REVIEWS: The East Corridor Unit Manager is responsible for administering the Admission and Orientation Program (A&O) in compliance with national policy. The purpose of the program is to familiarize each inmate with the unit staff, unit procedures, expected behavior, and programs available. All items on the A&O Checklist will be covered and utilized for verification of participation. As part of A&O, I-Unit inmates will receive a copy of this Institution Supplement and an A&O Handbook.

Classification and reviews of I-Unit inmates will occur according to national policy. Additionally, within five calendar days of arrival, I-Unit inmates will be provided a "NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT" form indicating the reasons for their placement in the unit. A blank copy of the form is included with this Institution Supplement, Attachment "A".

B. CONTACT WITH PERSONS IN THE COMMUNITY: The purpose of the CMU in I Unit is to provide increased monitoring of communication of the inmates assigned to it. By operating a self-contained housing unit, staff may adequately regulate and monitor all communications between inmates and persons in the community. All contact between I-Unit inmates and persons in the community may occur according to national policy, with necessary adjustments indicated herein. **Under no circumstances will privileged attorney-client communication be monitored, as prohibited by national policy.**

(a) Written General Correspondence. All incoming and outgoing written general correspondence must be reviewed by staff prior to delivery to the inmate or further processing to the post office.

(b) Telephone Communication. All telephone communication between inmates and persons in the community (except properly placed, unmonitored legal calls) will be:

- (1) conducted using monitored ITS phone lines;
- (2) be live-monitored by staff;
- (3) be subject to recording by staff; and
- (4) occur in English-only (by both the inmate and community call-recipient) unless previously scheduled for and conducted through simultaneous translation monitoring.

Persons from whom an inmate requests placement on the approved telephone list must complete the "**Acknowledgment of Conditions for Telephone Contact with Inmates in the Communication Management Unit, USP Marion,**" form included with this Institution Supplement as Attachment "B", as proof of their acknowledgment and acceptance of these conditions. Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In the event of terminated calls, inmates may be subject to disciplinary action, and the person may be removed from the inmate's approved telephone list.

In no event will the frequency or duration of telephone calls placed by I-Unit inmates be less than one telephone call per month (28 C.F.R. 540.100 (b) of at least three minutes duration (28 CFR 540.101 (d)). Unmonitored legal calls are not affected, and will continue to be managed according to national policy.

(c) Visiting. All visiting between inmates and persons in the community (except properly scheduled, unmonitored legal visits) will be:

- (1) conducted in the main visiting room using non-contact facilities (i.e., secure partitioned rooms, telephone voice contact);
- (2) be live-monitored by staff;
- (3) be subject to recording by staff;
- (4) occur in English-only (by both inmate and visitor) unless previously scheduled for and conducted through simultaneous translation monitoring.

Persons for whom an inmate requests placement on the approved visiting list must complete the "**Acknowledgment of Conditions for Visiting with Inmates in the Communication Management Unit, USP Marion,**" form included with this Institution Supplement as Attachment "C," as proof of their acknowledgment and acceptance of these conditions. Monitored visiting where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted

through simultaneous translation monitoring. Ordinarily, visiting will be scheduled to occur on weekdays for two-hour periods. Each inmate is authorized four hours of visiting each month (two 2-hour visits or one 4-hour visit.)

4. **HOUSING CONDITIONS / UNIT PROGRAMS / SERVICES:** I Unit is a self-contained general population housing unit where inmates reside, eat, and participate in all educational, recreational, religious, unit management, and work programming within the confines of I Unit. All national policies apply to administration of I Unit, except as otherwise modified in this supplement as necessary to affect the unit's mission of increased monitoring of communications, and pursuant to the Warden's authority to make the necessary changes to protect the safety, security, and good order of the facility, or to protect the public.

(a) **Cell Assignments:** I-Unit inmates will be housed in single bunk cells. Additionally, the unit contains a range of cells dedicated to segregated housing of those inmates in need of being placed in administrative detention or disciplinary segregation status. Cells I02-010L thru I02-016L are designated as segregation housing for I-Unit inmates placed in administrative detention status or disciplinary segregation status.

(b) **Health Services:** Health Services staff will provide sick call in the morning within the unit five days a week (M-F). Medications will be delivered and/or administered in the unit twice daily. Inmates may request to be seen by a physician in the unit's medical examination room. Specialized services may be provided in the institution's main health services unit as needed, under conditions which ensure I-Unit inmates' lack of contact with non-I-Unit inmates. Inmates who require examination will be seen in the examination room.

(c) **Mental Health Services:** Psychology staff will provide I-Unit inmates an initial psychological assessment within 14 days of arrival in the unit for new commitments and within 30 days for transfers. Mental health services thereafter will occur according to national policy. Inmates may request to be seen by a psychology staff member in the unit's medical examination room.

(d) **Meals:** All inmate meals will be served and consumed in the unit.

(e) **Education/Recreation Services:** National education policies will be implemented in I Unit. Inmates will ordinarily be permitted to leave their cells and participate in activities in the unit daily from 6:00 a.m. to 10:00 p.m., except during counts.

Leisure and law library services will be provided to inmates daily. Photocopies may be obtained by submitting a Request to Staff Member form to the law librarian or the Case Manager.

Inmates will be provided table games such as chess, checkers and cards. Hobby craft opportunities will also be provided.

There are 11 televisions available in the unit for viewing. The recreational areas will contain various

recreation activities to include handball, stationary biking, stair-stepping machines, and walking.

(f) Religious Services. National religious services policies will be implemented in I Unit. All communication with religious services providers from the community will be monitored as indicated in Section 3 of this Institution Supplement.

(g) Personal Property. National personal property policies will be implemented in I Unit. Inmates are allowed to maintain up to three cubic feet of legal material in their cell. Temporary additional space for active litigation material may be requested from the Case Manager.

(h) Commissary/Trust Fund Operations. National commissary and trust fund operation policies will be implemented in I Unit. Each inmate will be afforded the opportunity to purchase allowable items from the commissary if funds are available in the inmate's commissary account. Commissary purchase forms will be issued on Tuesday of each week by the Case Manager, and after completion of the forms they will be hand-delivered by the Case Manager to the commissary for processing by COB Wednesday. The commissary items will be delivered to the unit and handed out by commissary staff on Thursday of each week. Any special purchases (personal radios, etc.) must be approved by the Case Manager.

(i) Sanitation. I-Unit inmates are responsible for sanitation of their living areas. Unit orderly job assignments will be made by the Case Manager. Inmate showers will be available daily. Clean, serviceable clothing will be issued to each inmate upon his arrival to the unit. Unit laundry service will be available for issued clothing on Monday, Wednesday and Friday. I-Unit inmates are responsible for laundering their own personal clothing. Barber services for I Unit will be conducted within the unit. Inmates should submit an Inmate Request to Staff form at least one week in advance of the desired time for a haircut. An inmate from within the unit will be the barber.

(j) Work Assignments. Work assignments will include orderlies for unit sanitation, Food Service, laundry and recreation, and will be assigned by the Case Manager.

5. **ADMINISTRATIVE REMEDY PROGRAM:** You may appeal your transfer to I Unit, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. 542.10 through 542.19, and corresponding policy. Your case manager will provide you with the necessary form upon request.
6. **EFFECTIVE DATE:** This supplement is effective upon issuance.

Date

//s//
B. A. Bledsoe, Warden

MAR-5270.07A
Attachment C

**ACKNOWLEDGMENT OF CONDITIONS FOR VISITING
WITH INMATES IN THE COMMUNICATION MANAGEMENT UNIT,
USP MARION, ILLINOIS**

_____, an inmate housed in the CMU
(Inmate Name) (Reg. No.)

at the United States Penitentiary, Marion, Illinois, requests your name be placed on his approved visiting list.

As a condition of being placed on this inmate's approved visiting list, you agree to the following conditions:

- (1) All communication between you and the inmate will be subject to monitoring and recording by Bureau of Prisons' staff;
- (2) Your conversations with the inmate during the visit will occur in English-only, unless previously scheduled for, and conducted through, simultaneous translation monitoring; and
- (3) Monitored conversations where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved visiting list.

Signature

Date Signed

Printed Name

BP-3629-052 VISITOR INFORMATION CDPRM

MAR 2002

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Address	Institution	Date
	Re: (Inmate's Name and Register No.)	

Dear _____:

I am requesting that you be included among my approved visitors. In order to establish your suitability as a visitor, it may be necessary for institution officials to send an inquiry to an appropriate law enforcement or crime information agency to ascertain whether or not placing you on my visiting list would present a management problem for the institution, or have other possible adverse affects. The information obtained will be used to determine your acceptability as a visitor. The Bureau of Prisons' authority to request background information on proposed visitors is contained in Title 18 U.S.C. § 4242.

In order for you to be considered for the visiting privilege with me, it will be necessary for you to fill out the questionnaire and release form below and return it to the following address: (institution address).

You are not required to supply the information requested. However, if you do not furnish the information, the processing of your request will be suspended, and you will receive no further consideration. If you furnish only part of the information required, the processing of your request may be significantly delayed. If the information withheld is found to be essential to the processing of your request, you will be informed, and your request will receive no further consideration unless you supply the missing information. Although no penalties are authorized if you do not supply the information requested, failure to supply such information could result in your not being considered for admittance as a visitor. The criminal penalty for making false statements is a fine of not more than \$250,000 or imprisonment for not more than five years or both (See 18 U.S.C. § 1001).

Sincerely,

1. Legal Name		2. Date of Birth	3. Address (including Zip Code)
4. Telephone Number (including Area Code)		5. Race and Sex of Visitor	
6. Are you a U.S. Citizen? Yes ___ No ___	6a. If yes, provide Social Security No: _____		
	6b. If no, provide Alien Registration No: _____		
	6c. Provide Passport No: _____		
7. Relationship to above-named inmate		8. Do you desire to visit him/her? Yes ___ No ___	
9. Did you know this person prior to his/her current incarceration? Yes ___ No ___			
10. If the answer to #9 is yes, indicate the length of time you have known this person and where the relationship developed.			
11. Have you ever been convicted of a crime? If so, state the number, date, place, and nature of the conviction/s:			
12. Are you currently on probation, parole, or any other type of supervision? If so, state the name of your supervising probation/parole officer and the address and telephone no. where he/she can be contacted:			
13. Do you correspond or visit with other inmates? If so, indicate the individual(s) and their location(s):			
14. Driver's license No. and State of Issuance			

AUTHORIZATION TO RELEASE INFORMATION

I hereby authorize release to the Warden of: _____ any record of criminal offenses for which I have been arrested and convicted, and any information related to those convictions.

Signature for Authorization to Release Information (Sign and Print Name) Parent or Guardian

(If applicant is under 18 years of age, signature of parent or guardian indicates consent of minor to visit inmate).

If additional space is required, you may use the back of this form.
To be filed in Inmate Central File, FBI Section 7
Replaces BP-2629 of Sep 00

(This form may be replicated via WPA)

EXHIBIT 93



U.S. Department of Justice
Federal Bureau of Prisons
U.S. Penitentiary
Marion, IL 62959

Institution Supplement

OPI: Communication Management Unit
NUMBER: MAR-5321.07A
DATE: November 13, 2008
SUBJECT: Operation & Security of the Communication Management Unit (I Unit)

1. **PURPOSE AND SCOPE** This institution supplement establishes guidelines and procedures for the operation and security of the Communication Management Unit (CMU) in I Unit, at the United States Penitentiary, Marion, Illinois.

The CMU is established to house inmates who, due to their current offense of conviction, offense conduct, or other verified information, require increased monitoring of communication between inmates and persons in the community in order to protect the safety, security, and orderly operation of Bureau facilities, and to protect the public.

The CMU is a self-contained general population housing unit where inmates reside, eat, and participate in all educational, recreational, religious, unit management, and work programming within the confines of I Unit. Additionally, the unit contains a block of cells located on B Range which are dedicated to segregated housing for those inmates in need of being placed in administrative detention or disciplinary segregation status. All national policies applicable to general population inmates apply with conditions specified within the supplement.

2. **DIRECTIVES AFFECTED**

A. Directives Referenced

P.S. 1330.16, Administrative Remedy Program (August 23, 2001)

B. Directives Rescinded

MAR-5270.07A, Operation & Security of the Communication Management Unit (March 20, 2008)

3. **RESPONSIBILITY AND AUTHORITY**

A. ADMISSION & ORIENTATION / CLASSIFICATION AND REVIEWS: The executive assistant is responsible for administering the Admission and Orientation Program (A&O). The purpose of the program is to familiarize each inmate with the unit staff, unit procedures, expected behavior, and programs available. All items on the A&O Checklist will be covered and utilized for verification of participation. As part of A&O, I Unit inmates will receive a copy of this institution supplement and an I Unit A&O Handbook. A&O has been recorded on a DVD and will be presented to each inmate in I Unit.

Classification and reviews of I Unit inmates will occur according to national policy. Additionally, within five calendar days of arrival, I Unit inmates will be provided a "NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT" form indicating the reasons for their placement in the unit. A blank copy of the form is included with this Institution Supplement, Attachment "A".

B. CONTACT WITH PERSONS IN THE COMMUNITY: The purpose of the CMU in I Unit is to provide increased monitoring of communication of the inmates assigned to it. By operating a self-contained housing unit, staff may adequately regulate and monitor all communications between inmates and persons in the community.

(a) Written Correspondence. Mail call is held Monday through Friday between the hours of 12:00 p.m. - 2:00 p.m. You must be present to receive your mail. Mail leaving the institution must be hand-delivered to unit management staff. Mail leaving the institution must contain a return address which includes your name and register number. Legal and special mail will ordinarily be delivered by the case manager. Outgoing special mail (i.e., attorney, federal courts, probation officers, etc.) may be sealed, and delivered to the unit management staff during mail call hours.

(b) Telephone Communication. All telephone communication between inmates and persons in the community (except properly placed, unmonitored legal calls) will:

1. be conducted using monitored ITS phone lines;
2. be live-monitored by staff;
3. be recorded;
4. occur in English-only (by both the inmate and community call-recipient) unless previously scheduled for and conducted through simultaneous translation monitoring;
5. be limited to a single 15-minute call per week;
6. be scheduled Monday through Friday, excluding federal holidays between the hours of 8:00 a.m. and 2:30 p.m.

Persons from whom an inmate requests placement on the approved telephone list must complete the "**Acknowledgment of Conditions for Telephone Contact with Inmates in the Communication Management Unit, USP Marion,**" form included with this institution supplement as attachment "B", as proof of their acknowledgment and acceptance of these conditions. Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In the event of terminated calls, inmates may be subject to disciplinary action, and the person may be removed from the inmate's approved telephone list.

(c) Visiting. All visiting between inmates and persons in the community (except properly scheduled, unmonitored legal visits) will:

1. be conducted in the main visiting room using non-contact facilities (i.e., secure partitioned rooms, telephone voice contact);
2. be live-monitored;
3. be subject to recording;

4. occur in English-only (by both inmate and visitor) unless previously scheduled for and conducted through simultaneous translation monitoring;
5. Nonverbal communication (i.e. hand signals, sign language) may result in termination of the visit;
6. be scheduled Monday through Friday, excluding federal holidays between the hours of 8:30 a.m. and 3:00 p.m. Each inmate is authorized four hours of visiting each month (two 2-hour visits or one 4-hour visit.)

Any violations may result in immediate termination of the visit. Persons for whom an inmate requests placement on the approved visiting list must complete the **"Acknowledgment of Conditions for Visiting with Inmates in the Communication Management Unit, USP Marion,"** form included with this institution supplement as attachment "C," as proof of their acknowledgment and acceptance of these conditions.

4. **HOUSING CONDITIONS / UNIT PROGRAMS / SERVICES:**

(a) Cell Assignments: Ordinarily, I-Unit inmates will be housed in single bunk cells. The unit contains a range of cells dedicated to segregated housing of those inmates in need of being placed in administrative detention or disciplinary segregation status. Cells I02-010L thru I02-016L are designated as segregation housing for I Unit inmates placed in administrative detention status or disciplinary segregation status.

(b) Health Services: Health Services staff will provide sick call in the morning on Monday, Tuesday, Thursday and Friday in the unit examination room. Medications will be delivered and/or administered in the unit twice daily. Inmates may request to be seen by a physician. Specialized services may be provided in the institutions's main health services unit as needed.

(c) Mental Health Services: Psychology staff will make regular rounds within the unit. Inmates may request to be seen by psychology staff, which will occur within the unit.

(d) Meals: All inmate meals will be served and consumed in the unit.

(e) Education/Recreation Services: Inmates will ordinarily be permitted to leave their cells and participate in activities in the unit from 6:00 a.m. to 9:45 p.m., except during counts.

A basic leisure and law library are located within the unit. Additional materials may be requested from the main leisure and law library. A photocopier has been provided for inmate use at their expense.

Inmates will be provided table games such as chess, checkers and cards. Hobby craft

opportunities will also be provided.

Earphones will be utilized when playing radios at all times. Radios may be played on the recreation yard, walkways during off-duty hours, and in individual inmate cells. Alteration of a radio is not permitted and will be confiscated as contraband.

Televisions are available in the unit for viewing. The recreational areas contain various recreation activities to include handball, basketball courts, sit-up benches, stationary bikes, stair-stepping machines, and walking.

(f) Religious Services. Religious service opportunities will be provided in the unit.

(g) Ice Machine: An ice machine is provided. This area must be kept clean at all times. Water drainage lines must remain unclogged and will not be used to dispose of food items. The ice machine may be turned off for an indeterminate amount of time if contraband is found in this area.

(h) Commissary/Trust Fund Operations. Commissary purchase forms will be issued on Tuesday of each week by Unit Management staff. After completion of the forms, they will be hand-delivered by staff to the commissary for processing by COB Wednesday. The commissary items will be delivered to the unit and distributed by commissary staff on Thursday of each week. Any special purchases (personal radios, etc.) must be approved by Unit Management staff. Commissary items will be neatly stored in your assigned locker ONLY. Under no circumstances are commissary items to be stored on the floor. Items not stored in their original container are considered contraband and will be confiscated. Original containers are to be disposed of when empty and will not be used for other purposes.

(i) Sanitation/Personal Hygiene. I-Unit inmates are responsible for sanitation of their living areas. Unit orderly job assignments will be made by the unit staff. Clean, serviceable clothing will be issued to each inmate upon his arrival to the unit. Unit laundry service are available in the unit. I-Unit inmates are responsible for laundering their own personal clothing. Barber services for I Unit will be conducted within the all inmates are required to make their beds, clean their rooms, empty their trash containers and turn off their lights prior to leaving for work, on a daily basis. Daily inspections will be made by unit staff for cleanliness and sanitation unit.

Each inmate will be issued basic hygiene items. Additional items may be purchased by the inmate from the institution commissary. Inmate showers are available. Staff will make regular rounds within the unit to assure proper sanitation is being maintained.

(j) Work Assignments. All work assignments will be made by the unit team.

MAR-5321.07A
Page 5

November 13, 2008

5. **ADMINISTRATIVE REMEDY PROGRAM:** You may appeal your transfer to I Unit, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. 542.10 through 542.19, and Program Statement 1330.16. Unit staff will provide you with the necessary form upon request.

6. **EFFECTIVE DATE:** This supplement is effective upon issuance.

Date

//s//
Lisa J. W. Hollingsworth, Warden

Attachment A

NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate Name (Last, First, Middle):	Register Number:
Warden (print and signature):	Institution:
Lisa J. W. Hollingsworth, Warden	USP Marion, Illinois

NOTICE: This notice informs you of your transfer to a Federal Bureau of Prisons (Bureau) facility that allows greater management of your communication with persons in the community through more effective monitoring of your telephone use, written correspondence, and visiting. Your communication by these methods may be limited as necessary to allow effective monitoring. Your general conditions of confinement in this unit may also be restricted as necessary to provide greater management of your communications. Your transfer to this unit, by itself, will have no effect on the length of your incarceration. You will continue to earn good-conduct sentence credit in accordance with Bureau policy.

Your transfer to this facility under these conditions is based on the following specific information:

--

Based on this information, your transfer to this facility for greater communication management is necessary to the safe, secure, and orderly operation of Bureau institutions, or protection of the public. Your continued designation to this facility will be reviewed regularly by your unit team under circumstances providing you notice and an opportunity to be heard, in accordance with the Bureau's policy on Classification and Program Review of Inmates.

OPPORTUNITY TO APPEAL TRANSFER DECISION - You may appeal this transfer decision, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. §§ 542.10 through 542.19, and corresponding policy. A member of your unit team will provide you with the necessary form upon request.

INSTRUCTIONS TO STAFF - Provide the inmate a copy of this form and complete the following information documenting delivery.

Staff Member Name and Position (printed):	Staff Member (signature):	Date Issued:

Attachment B

**ACKNOWLEDGMENT OF CONDITIONS FOR TELEPHONE CONTACT
WITH INMATES IN THE COMMUNICATION MANAGEMENT UNIT,
USP MARION, ILLINOIS**

_____, _____, an inmate housed in the CMU
(Inmate Name) (Reg. No.)

at the United States Penitentiary, Marion, Illinois, requests your name be placed on his approved telephone list.

As a condition of being placed on this inmate's approved telephone list, you agree to the following conditions:

- (1) All telephone communication between you and the inmate will be subject to monitoring and recording by Bureau of Prisons' staff;
- (2) Your telephone conversation with the inmate will occur in English-only, unless previously scheduled for, and conducted through, simultaneous translation monitoring; and
- (3) Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved telephone list.

Signature

Date Signed

Printed Name

Phone Number

Attachment C

**ACKNOWLEDGMENT OF CONDITIONS FOR VISITING
WITH INMATES IN THE COMMUNICATION MANAGEMENT UNIT,
USP MARION, ILLINOIS**

_____, _____, an inmate housed in the CMU
(Inmate Name) (Reg. No.)

at the United States Penitentiary, Marion, Illinois, requests your name be placed on his approved visiting list.

As a condition of being placed on this inmate's approved visiting list, you agree to the following conditions:

- (1) All communication between you and the inmate will be subject to monitoring and recording by Bureau of Prisons' staff;
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- (3) Monitored conversations where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved visiting list.

Signature

Date Signed

Printed Name

EXHIBIT 94



U.S. Department of Justice
Federal Bureau of Prisons
U.S. Penitentiary
Marion, IL 62959

Institution Supplement

OPI: Communication Management Unit
NUMBER: MAR-5321.07B
DATE: June 4, 2009
SUBJECT: Operation & Security of the Communication Management Unit (I Unit)

1. **PURPOSE AND SCOPE** This Institution Supplement establishes guidelines and procedures for the operation and security of the Communication Management Unit (CMU) in I Unit, at the United States Penitentiary, Marion, Illinois.

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The CMU is a self-contained general population housing unit where inmates reside, eat, and participate in all educational, recreational, religious, unit management, and work programming within the confines of I Unit. Additionally, the unit contains a block of cells located on B Range which are dedicated to segregated housing for those inmates in need of being placed in administrative detention or disciplinary segregation status. All National policies applicable to general population inmates apply with conditions specified within the supplement.

2. **DIRECTIVES AFFECTED**

- A. Directives Referenced

P.S. 1330.16, Administrative Remedy Program (August 23, 2001)

- B. Directives Rescinded

MAR-5270.07A, Operation & Security of the Communication Management Unit (March 20, 2008)

3. **RESPONSIBILITY AND AUTHORITY**

- A. **ADMISSION & ORIENTATION / CLASSIFICATION AND REVIEWS:** The Executive Assistant is responsible for administering the Admission and Orientation Program (A&O). The purpose of the program is to familiarize each inmate with the unit staff, unit procedures, expected behavior, and programs available. All items on the A&O Checklist will be covered and the checklist will be utilized for verification of participation. As part of A&O, I Unit

inmates will receive a copy of this Institution Supplement and an I Unit A&O Handbook. A&O has been recorded on a DVD and will be presented to each inmate in I Unit.

Classification and reviews of I Unit inmates will occur according to national policy. Additionally, within five calendar days of arrival, I Unit inmates will be provided a "NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT" form indicating the reasons for their placement in the unit. A blank copy of the form is included with this Institution Supplement, Attachment "A".

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(a) Written Correspondence. Mail call is held Monday through Friday between the hours of 12:00 p.m. - 2:00 p.m. You must be present to receive your mail. Mail leaving the institution must be hand-delivered to unit management staff. Mail leaving the institution must contain a return address which includes your name and register number. Legal and special mail will ordinarily be delivered by the Case Manager. Out going special mail (i.e., attorney, federal courts, probation officers, etc.) may be sealed, and delivered to the unit management staff during mail call hours.

(b) Telephone Communication. All telephone communication between inmates and persons in the community (except properly placed, unmonitored legal calls) will:

- (1) be conducted using monitored ITS phone lines;
- (2) be live-monitored by staff;
- (3) be recorded;
- (4) occur in English-only (by both the inmate and community call-recipient) unless previously scheduled for and conducted through simultaneous translation monitoring;
- (5) be limited to a single 15 minute call per week;
- (6) be scheduled Monday through Friday, excluding federal holidays between the hours of 8:00 a.m. and 2:30 p.m.

Persons from whom an inmate requests placement on the approved telephone list must complete the "**Acknowledgment of Conditions for Telephone Contact with Inmates in the Communication Management Unit, USP Marion,**" form included with this institution supplement as Attachment "B", as proof of their acknowledgment and acceptance of these conditions. Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In the event of terminated calls, inmates may be subject to disciplinary action, and the person may be removed from the inmate's approved telephone list.

(c) Visiting. All visiting between inmates and persons in the community (except properly scheduled, unmonitored legal visits) will:

- (1) be conducted in the main visiting room using non-contact facilities (i.e., secure partitioned rooms, telephone voice contact);
- (2) be live-monitored;
- (3) be subject to recording;
- (4) occur in English-only (by both inmate and visitor) unless previously scheduled for and conducted through simultaneous translation monitoring;
- (5) Nonverbal communication (i.e. hand signals, sign language) may result in termination of the visit;
- (6) be scheduled Monday through Friday, excluding federal holidays between the hours of 8:30 a.m. and 3:00 p.m. Each inmate is authorized four hours of visiting each month (two 2-hour visits or one 4-hour visit.)

Any violations may result in immediate termination of the visit. Persons for whom an inmate requests placement on the approved visiting list must complete the "**Acknowledgment of Conditions for Visiting with Inmates in the Communication Management Unit, USP Marion,**" form included with this Institution Supplement as Attachment "C," as proof of their acknowledgment and acceptance of these conditions.

4. **HOUSING CONDITIONS / UNIT PROGRAMS / SERVICES:**

(a) Cell Assignments: Ordinarily, I-Unit inmates will be housed in single bunk cells. The unit contains a range of cells dedicated to segregated housing of those inmates in need of being placed in administrative detention or disciplinary segregation status. Cells I02-010L thru I02-016L are designated as segregation housing for I-Unit inmates placed in administrative detention status or disciplinary segregation status.

(b) Health Services: Health Services staff will provide sick call in the morning on Monday, Tuesday, Thursday and Friday in the unit examination room. Medications will be delivered and/or administered in the unit twice daily. In the event there are no medication(s) for delivery on the evening shift, staff will not conduct same in the unit. Inmates may request to be seen by a physician. Specialized services may be provided in the institutions's main health services unit as needed.

(c) Mental Health Services: Psychology staff will make regular rounds within the unit. Inmates may request to be seen by psychology staff, which will occur within the unit.

(d) Meals: All inmate meals will be served and consumed in the unit. Food from the Food Service line may not be stored in inmate cells.

(e) Education/Recreation Services: Inmates will ordinarily be permitted to leave their cells and participate in activities in the unit from 6:00 a.m. to 9:45 p.m., except during counts.

A basic leisure and law library are located within the unit. Additional materials may be accessed by using the electronic law library. A photocopier has been provided for inmate use at their expense.

Inmates will be provided table games such as chess, checkers and cards. Hobby craft opportunities will also be provided.

Earphones will be utilized when playing radios at all times. Radios may be played on the recreation yard, walkways during off duty hours, and in individual inmate cells. Alteration of a radio is not permitted and will be confiscated as contraband.

Televisions are available in the unit for viewing. The recreational areas contain various recreation activities to include handball, basketball courts, sit up benches, stationary bikes, stair-stepping machines, and walking.

(f) Religious Services. Religious service opportunities will be provided in the unit.

(g) Ice Machine: An ice machine is provided. This area must be kept clean at all times. Water drainage lines must remain unclogged and will not be used to dispose of food items. The ice machine may be turned off for an indeterminate amount of time if contraband is found in this area.

(h) Commissary/Trust Fund Operations. Commissary purchase forms will be issued on Tuesday of each week by unit management staff. After completion of the forms they will be hand-delivered by staff to the commissary for processing by COB Wednesday. The commissary items will be delivered to the unit and handed out by commissary staff on Thursday of each week. Any special purchases (personal radios, etc.) must be approved by unit management staff. Commissary items will be neatly stored in your assigned locker ONLY. Under no circumstances are commissary items to be stored on the floor. Items not contained in their original container are considered contraband and will be confiscated. Original containers are to be disposed of when empty and will not be used for other purposes.

(i) Sanitation/Personal Hygiene. I Unit inmates are responsible for sanitation of their living areas. Unit orderly job assignments will be made by the unit staff. Clean, serviceable clothing will be issued to each inmate upon his arrival to the unit. Unit laundry service are available in the unit. I Unit inmates are responsible for laundering their own personal clothing. Barber services for I Unit will be conducted within the all inmates are required to make their beds, clean their rooms, empty their trash containers and turn off their lights prior to leaving for work, on a daily basis. Daily inspections will be made by unit staff for cleanliness and sanitation unit.

MAR-5321.07B
Page 5

May 19, 2009

Each inmate will be issued basic hygiene items. Additional items may be purchased by the inmate from the institution commissary. Inmate showers are available. Staff will make regular rounds within the unit to assure proper sanitation is being maintained.

(j) Work Assignments. All work assignments will be made by the unit team.

5. **ADMINISTRATIVE REMEDY PROGRAM:** You may appeal your transfer to I Unit, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. 542.10 through 542.19, and Program Statement 1330.16. Unit staff will provide you with the necessary form upon request.

6. **EFFECTIVE DATE:** This supplement is effective upon issuance.

Date

Lisa J. W. Hollingsworth, Warden

MAR-5321.07B
Page 6

May 19, 2009

Attachment A

NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate Name (Last, First, Middle):	Register Number:
Warden (print and signature): Lisa J. W. Hollingsworth, Warden	Institution: USP Marion, Illinois

NOTICE: This notice informs you of your transfer to a Federal Bureau of Prisons (Bureau) facility that allows greater management of your communication with persons in the community through more effective monitoring of your telephone use, written correspondence, and visiting. Your communication by these methods may be limited as necessary to allow effective monitoring. Your general conditions of confinement in this unit may also be restricted as necessary to provide greater management of your communications. Your transfer to this unit, by itself, will have no effect on the length of your incarceration. You will continue to earn good-conduct sentence credit in accordance with Bureau policy.

Your transfer to this facility under these conditions is based on the following specific information:

Based on this information, your transfer to this facility for greater communication management is necessary to the safe, secure, and orderly operation of Bureau institutions, or protection of the public. Your continued designation to this facility will be reviewed regularly by your Unit Team under circumstances providing you notice and an opportunity to be heard, in accordance with the Bureau's policy on Classification and Program Review of Inmates.

OPPORTUNITY TO APPEAL TRANSFER DECISION - You may appeal this transfer decision, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. §§ 542.10 through 542.19, and corresponding policy. A member of your Unit Team will provide you with the necessary form upon request.

MAR-5321.07B
Page 7

May 19, 2009

INSTRUCTIONS TO STAFF - Provide the inmate a copy of this form and complete the following information documenting delivery.

Staff Member Name and Position (printed):	Staff Member (signature):	Date Issued:
--	----------------------------------	---------------------

MAR-5321.07B
Page 8

May 19, 2009

Attachment B

**ACKNOWLEDGMENT OF CONDITIONS FOR TELEPHONE CONTACT
WITH INMATES IN THE COMMUNICATION MANAGEMENT UNIT,
USP MARION, ILLINOIS**

_____, _____, an inmate housed in the CMU
(Inmate Name) (Reg. No.)

at the United States Penitentiary, Marion, Illinois, requests your name be placed on his approved telephone list.

As a condition of being placed on this inmate's approved telephone list, you agree to the following conditions:

- (1) All telephone communication between you and the inmate will be subject to monitoring and recording by Bureau of Prisons' staff;
- (2) Your telephone conversation with the inmate will occur in English-only, unless previously scheduled for, and conducted through, simultaneous translation monitoring; and
- (3) Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved telephone list.

Signature

Date Signed

Printed Name

Phone Number

MAR-5321.07B
Page 9

May 19, 2009

Attachment C

**ACKNOWLEDGMENT OF CONDITIONS FOR VISITING
WITH INMATES IN THE COMMUNICATION MANAGEMENT UNIT,
USP MARION, ILLINOIS**

_____, _____, an inmate housed in the CMU
(Inmate Name) (Reg. No.)

at the United States Penitentiary, Marion, Illinois, requests your name be placed on his approved visiting list.

As a condition of being placed on this inmate's approved visiting list, you agree to the following conditions:

- (1) All communication between you and the inmate will be subject to monitoring and recording by Bureau of Prisons' staff;
- (2) Your conversations with the inmate during the visit will occur in English-only, unless previously scheduled for, and conducted through, simultaneous translation monitoring; and
- (3) Monitored conversations where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved visiting list.

Signature

Date Signed

Printed Name

EXHIBIT 95



Program Statement

OPI: CPD/CPB
NUMBER: P5322.12
DATE: 11/29/2006
SUBJECT: Inmate Classification and
Program Review

RULES EFFECTIVE: 7/24/2006

1. **PURPOSE AND SCOPE.** This Program Statement provides policy and procedure for the classification and subsequent review of the security, custody and program needs of inmates who have been designated for service of sentence.

2. **SUMMARY OF CHANGES.** Significant changes to this Program Statement include:

- All inmates regardless of type of commitment will be classified within 28 calendar days of arrival at their designated facilities;
- References and procedures regarding the SENTRY-generated Program Review Report have been incorporated;
- The instructions for developing and documenting measurable goals have been clarified;
- The Case Management Coordinator (CMC) is no longer required to attend each unit team at least once every six months or to complete the Unit Team Assessment form;
- Allows Unit Staff other than the Unit Manager to chair Program Reviews. Ordinarily, the Unit Manager will chair Program Reviews when Community Corrections Center (CCC) referral decisions are considered; and
- A standardized reporting form, the Education Progress Report (Attachment B) has been developed for the unit team to use when the Education Advisor is unable to provide an in-person report of the inmate's educational needs/progress.

3. **PROGRAM OBJECTIVES.** The expected results of this Program Statement are:

a. All Initial Classification and Program Review decisions will be made by a team of correctional specialists;

b. All departments will have the opportunity to contribute to the classification and program review process;

c. All inmates will have the opportunity to communicate directly with the staff who make classification, custody and program review decisions; and

d. All inmates will be classified within appropriate time frames in accordance with their security, custody, and program needs.

4. **DIRECTIVES AFFECTED**

a. **Directive Rescinded**

P5322.11 Classification and Program Review of Inmates
(3/11/99)

b. **Directives Referenced**

P1330.13 Administrative Remedy Program (12/22/95)
P5070.10 Responses to Judicial Recommendations and U.S.
Attorney Reports (6/30/97)
P5070.11 Study and Observation Reports (12/31/97)
P5100.08 Security Designation and Custody Classification
System (9/12/06)
P5110.15 Notifications of Release to State and Local Law
Enforcement Officials (8/30/00)
P5111.03 Mariel Cuban Detainees (10/25/99)
P5140.34 Transfer of Offenders To or From Foreign
Countries (9/21/00)
P5215.05 Youth Corrections Act (YCA) Institutions and
Programs (3/17/99)
P5290.12 Intake Screening (3/16/99)
P5290.14 Admission and Orientation Program (4/3/03)
P5321.07 Unit Management (9/16/99)
P5325.06 Release Preparation Program (3/4/02)
P5350.28 Literacy Program (GED Standard) (12/1/03)
P5380.08 Inmate Financial Responsibility Program
(8/15/05)

P5800.11 Inmate Central File (9/8/97)
P5803.07 Progress Reports (3/16/98)
P7331.04 Pretrial Inmates (1/31/03)

T5802.02 SENTRY General Use Technical Reference Manual
(7/10/00)

c. Rules cited in this Program Statement are contained in 28 CFR 524.10-11 and 551.107 (see Attachment A)

5. **STANDARDS REFERENCED**

a. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-IE-06, 3-ALDF-4B-01, and 3-ALDF-4B-02

b. American Correctional Association 4th Edition Standards for Adult Correctional Institutions: 4-4295, 4-4296, 4-4297, 4-4298, 4-4299, 4-4300, 4-4301, 4-4302, and 4-4303

6. **PRETRIAL/HOLDOVER AND/OR DETAINEE PROCEDURES.** Procedures for pretrial inmates are specified in the **Pretrial Inmate** Program Statement. This Program Statement is not applicable to holdover inmates. Additional direction regarding long-term detainees may be found in the **Mariel Cuban Detainees** Program Statement, which also includes procedures on Mariel Cubans serving federal sentences.

7. **CLASSIFICATION TEAM.** At a minimum, each unit team will include the inmate's assigned Unit Manager or designee, Case Manager, and Correctional Counselor. An Education Advisor and a Psychology Services representative are also ordinarily members of the team.

The Education Advisor is the unit team's consultant and expert regarding all education, recreation, and vocational training matters. The Education Advisor may be assigned to one or more unit teams and, therefore, may not be able to attend all Initial Classification or Program Review meetings.

While attendance at these meetings is preferred and strongly recommended, a local variance may be granted with the Warden's written approval.

When not in attendance, the Education Advisor will provide the unit team with a written report of the progress and/or measurable needs of all unit inmates relative to education, recreation, and vocational training matters at each Initial Classification and

subsequent Program Review using the Education Progress Report (Attachment B). This written report will be provided to the Unit Manager prior to the team meeting. Education recommendations or requirements should include target time frames for program completion, and measurable assessments during participation in courses.

The Unit Psychologist is not required to serve as a regularly attending unit team member. However, Unit Psychologists are responsible for providing the unit team with written psychological reports for inmates who are scheduled for Initial Classification or Program Review who have regular contact with Psychology Services staff. This written report will be provided to the Unit Manager prior to the team meeting.

Health Services staff will ensure that SENTRY Medical Duty Status (MDS) assignments are accurate and current.

8. INITIAL CLASSIFICATION AND PROGRAM REVIEWS. There are two types of regularly scheduled unit team meetings, Initial Classification and Program Reviews. The Unit Manager monitors the scheduling of unit team meetings and, therefore, must ensure Case Managers meet Initial Classification and Program Review time requirements.

When practicable, unit staff will hold an Initial Classification or Program Review as scheduled when the inmate is held in the Special Housing Unit. However, any delay should ordinarily not exceed two weeks from the originally scheduled review and the reason for the delay should be documented on the SENTRY-generated Program Review Report.

a. The purpose of Initial Classification is to develop a program plan for the inmate during his/her incarceration. This plan should include work and programming activities which will assist the inmate to develop skills to make a successful transition back into the community.

Initial Classification occurs within 28 calendar days of arrival at the designated institution for each newly committed inmate (new commit, parole, mandatory release and supervision violators) following sentencing or return to custody as a violator.

Former Study and Observation cases should be scheduled for Initial Classification within 28 calendar days of receipt of the Inmate Central File, but no later than 90 calendar days after arrival if no Inmate Central File is available.

b. At Program Reviews, progress in recommended programs will be reviewed, and new programs recommended based upon skills the inmate has gained during incarceration. Program Reviews occur at least once every 180 calendar days.

When an inmate is within 12 months of the projected release date, staff will conduct a Program Review at least once every 90 calendar days. When an inmate is re-designated, a Program Review must be held within 28 calendar days of the inmate's arrival at the new institution.

In some cases, a Program Review date may occur while an inmate is away from the institution, or in the custody of other law enforcement agencies. Then, the unit team must conduct a Program Review meeting within two weeks of the inmate's return. Otherwise, the inmate's next Program Review will occur as scheduled.

Unit team members are to review all relevant information before Initial Classification or a Program Review. Additionally, each team member will provide the following specific information at the team meeting.

(1) Ordinarily, the **Unit Manager** will chair all Initial Classifications and Program Reviews where CCC referral decisions are considered. Other Program Reviews may be chaired by another staff member. The Unit Manager will monitor the scheduling of an inmate's appearance before the unit team and all other team actions. The Unit Manager's or Chairperson's signature on the SENTRY-generated Program Review Report indicates that:

- (a) The information contained on the Acknowledgment of Inmate forms (BP-407 and 408) is correct, complete, and filed in Section 3 of the Inmate Central File;
- (b) The Judgment(s) in a Criminal Case and the Statement of Reasons were reviewed to ensure any judicial recommendations requiring unit team actions are addressed;
- (c) The inmate's trust fund record is obtained for all Program Reviews (data will include deposit, balance, and purchase activity from the prior Initial Classification or Program Review to the present team meeting);

- (d) The SENTRY-generated Program Review Report (replaces the BP-571) is signed, certifying that all required team members are present and that the SENTRY-generated Program Review Report is current and accurate; and
- (e) All SENTRY data is current, accurate and complete, including:
 - Assignments in the work, drug, religion, Inmate Financial Responsibility Program, Victim Witness Program categories, and all case management activity (CMA) assignments;
 - Identifying data and numbers;
 - Sentence related transactions;
 - Security Designation Data, CMC Clearance and Separatee Data, and Custody Classification forms; and
 - Chronological Disciplinary Record (as compared with incident report(s) and associated hearing.

(2) The **Case Manager** schedules the inmate's appearance before the unit team, and provides a verbal summary of the inmate's:

- Current offense;
- Prior record;
- Social situation;
- Security/custody classification;
- Central Inmate Monitoring System (CIM) concerns;
- Financial Responsibility Program obligations; and
- Release Preparation Program participation, and special programming considerations (Drug Abuse Program, Mental Health Program, etc.).

(3) The **Correctional Counselor** provides a verbal summary of the inmate's:

- Work performance;
- Participation in individual or group counseling;
- General adjustment;
- Living quarters sanitation;
- The Correctional Counselor also contacts Health Services staff, when necessary, to ensure SENTRY MDS assignments are current and accurate; and
- When the Education Advisor is unable to attend a unit team meeting, the Correctional Counselor provides a summary of the inmate's education test results, recommended educational program needs, and progress toward completion of education and other applicable release readiness programs, using Attachment B, provided by the Education Advisor.

c. A team docket will be prepared for each unit team meeting (Initial Classification or Program Review), listing the name and register number of each inmate scheduled for appearance and the date and time of the meeting.

Dockets will be posted conspicuously in the unit at least 48 hours prior to the meeting (or inmates must be otherwise notified by staff at least 48 hours prior if they do not have access to such posting). The inmate may waive the 48-hour notice in writing.

The inmate's attendance at Initial Classification or Program Review is expected. Ordinarily, if the team meeting is properly scheduled and the inmate fails to appear, disciplinary action will be taken. If the inmate refuses to appear, staff will document on the SENTRY-generated Program Review Report the inmate's refusal, and if known, the reason. A copy of the Program Review Report will be forwarded to the inmate.

d. Staff must complete a SENTRY-generated Program Review Report at the inmate's Initial Classification and all subsequent Program Reviews. This report ordinarily includes information on the inmate's needs and offers a correctional program designed to meet those needs.

All correctional programs will be stated in measurable terms, establishing time limits, performance levels, and specific, expected program accomplishments.

Note: On the SENTRY-generated Program Review Report, in the Section "GOALS FOR NEXT PROGRAM REVIEW MEETING" no dates are necessary as it is clear the time limit is by the next Program Review. Under "LONG TERM GOALS" a target date should be established and monitored at each Program Review for adjustment if necessary.

Example A: GOALS FOR NEXT PROGRAM REVIEW MEETING: Recommend enrollment in Anger Management counseling group. Enroll in General Equivalency Diploma (GED) program.

Example B: LONG TERM GOALS: Complete GED by MM/YY. Enroll in Release Preparation Program (list specific course) by MM/YY.

Inmates who are classified as CIM cases will be reviewed and that review documented on the SENTRY-generated Program Review Report. This notation will indicate whether the CIM assignment is appropriate or whether declassification procedures will be initiated.

e. At Initial Classification, a sentenced inmate is assigned to a work detail if cleared for duty by Health Services staff. The unit team must consider the inmate's financial responsibilities and obligations when considering a work assignment.

At Initial Classification, staff must notify, in writing, newly designated inmates, who meet the applicability criteria of Title 18 U.S.C. § 4042(b) and/or (c), that they are subject to notification and/or registration.

f. Inmates subject to **VCCLEA notification** pursuant to Title 18 U.S.C. § 4042(b):

- Will be notified via a copy of the SENTRY-generated Program Review Report; and
- A copy of the SENTRY-generated Program Review Report with the notification statement will be filed in Section 5 (Release Processing) of the Inmate Central File.

g. Inmates subject to **Sex Offender Registration and Treatment Notification** pursuant to Title 18 U.S.C. § 4042(c):

- Will be notified at initial classification via a copy of the Sex Offender Registration and Treatment Notification form (Part A) (BP-648); and
- Will be renotified at the last program review prior to release via a copy of the Sex Offender Registration and Treatment Notification form (Part B) (BP-648); and
- The original Sex Offender Registration and Treatment Notification form will be filed in Section 5 (Release Processing) of the Inmate Central File.

The SENTRY-generated Program Review Report will document the inmate's Release Preparation Program CMA assignments and staff will identify specific courses recommended and/or courses that the inmate is currently enrolled in. Staff should refer to the Program Statement **Release Preparation Program** for further instruction.

h. The inmate is to be provided with, and must sign for, a copy of the SENTRY-generated Program Review Report. If the inmate refuses to sign for a copy of this report, staff witnessing the refusal will place a signed statement to that effect on the report.

The SENTRY-generated Program Review Report is to be filed in Section 2 of the Inmate Central File. Signatures and unit team actions will be maintained on the SENTRY-generated Program Review Report since duplication is not required on the Inmate Activity Log and the team docket.

The previous six SENTRY-generated Program Review Reports must be maintained to ensure the information contained therein is available for inclusion in a triennial Progress Report.

9. **EFFECT OF A DETAINER ON AN INMATE'S PROGRAM.** The existence of a detainer, by itself, ordinarily does not affect the inmate's program participation. An exception may occur where the program is contingent on a specific issue (for example, custody) which is affected by the detainer.

10. **UNSCHEDULED REVIEWS.** Institution staff may schedule an inmate for a Program Review more frequently than regularly scheduled. Upon request of either the inmate or staff, and with the concurrence of the Unit Manager, an ad hoc Program Review may be held. The inmate must be notified by staff at least 48 hours prior to an ad hoc Program Review. The inmate may waive the 48-hour notice in writing.

P5322.12
11/29/2006
Page 10

11. **APPEALS PROCEDURE.** An inmate may appeal, through the Administrative Remedy Program, a decision made at Initial Classification or at a Program Review.

12. **TRAINING RESPONSIBILITIES.** The Case Management Coordinator and Unit Manager will ensure that Case Managers and Correctional Counselors are familiarized with this Program Statement's requirements during the on the job training periods which are required for these positions.

/s/
Harley G. Lappin
Director

CODE OF FEDERAL REGULATIONS ON CLASSIFICATION OF INMATES
§524.10 - 524.11

§ 524.10 What is the purpose of this subpart?

The purpose of this subpart is to explain the Bureau of Prisons (Bureau) process for classifying newly committed inmates and conducting program reviews for all inmates except:

- (a) Pretrial inmates, covered in § 551.107 of this chapter;
- (b) Inmates committed for study and observation; and
- (c) Inmates in holdover status during transfer to a designated institution or other destination.

§ 524.11 What is the process for classification and program reviews?

(a) Timing:

(1) Ordinarily, staff will classify each newly committed inmate within 28 calendar days of arrival at the institution designated for service of sentence.

(2) Inmates will receive a program review at least once every 180 calendar days. When an inmate is within twelve months of the projected release date, a program review will be conducted at least once every 90 calendar days.

(b) Inmate appearance before classification team:

(1) Inmates will be notified at least 48 hours before that inmate's scheduled appearance before the classification team (whether for the initial classification or later program reviews).

(2) Inmates may submit a written waiver of the 48-hour notice requirement.

(3) The inmate is expected to attend the initial classification and all later program reviews. Failure to attend initial classification and program reviews may result in disciplinary action.

(c) Program Review Report: A Program Review Report will be completed at the inmate's initial classification. This report ordinarily includes information on the inmate's apparent needs and offers a correctional program designed to meet those needs. The Unit Manager and the inmate must sign the Program Review Report, and a copy must be given to the inmate.

(d) Program Participation: Each sentenced inmate who is physically and mentally able is assigned to a program at initial classification. The inmate may choose not to participate unless the program is a work assignment or required by Bureau policy, court order, or statute. Refusal to participate may result in disciplinary action.

Education Progress Report

To: _____, Unit Manager

Prepared by: _____
Education Advisor

Inmate Name Register Number Date

Initial Classification Information

GED/High School: Completed (YES/NO) _____
Year or Highest Grade Completed _____

ESL: Completed (YES/NO) _____

Date of Education Interview: _____

Recommendations/Comments (Please include information regarding recommended classes and target enrollment date):

Program Review Information

Class: _____ Instructor: _____

Performance: _____

Attendance: _____

Target Completion Date: _____

Hours Completed: _____ Progress: Satisfactory/Unsatisfactory

Class: _____ Instructor: _____

Performance: _____

Attendance: _____

Target Completion Date: _____

Hours Completed: _____ Progress: Satisfactory/Unsatisfactory

Recommendations/Comments (Please include information regarding recommended classes and target enrollment date):

EXHIBIT 96

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
Yassin Muhiddin AREF, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No.:1:10-cv-00539-BJR
)	
Eric HOLDER, et al.,)	
)	
Defendants.)	
_____)	

EXPERT REPORT OF WALTER L. KAUTZKY

I. Executive Summary

Plaintiff's counsel in this matter asked me to address certain issues regarding the Federal Bureau of Prisons' ("BOP") policies and procedures, both those currently in use (*see* Institutional Supplements THX-5321.07B, dated September 1, 2011 and MAR-5321.07A, dated November 13, 2008, and MAR-5321.07, dated Aug. 29, 2001) (hereafter "CMU Institution Supplements") and those proposed by the Bureau of Prisons at 75 F.R. 17,324 (proposed Apr. 6, 2010) (to be codified at 28 C.F.R. pt. 540) at the Communication Management Units (CMUs) at the United States Penitentiary (USP) at Marion, Illinois and the Federal Correction Institution (FCI) at Terre Haute, Indiana. Specifically, I was asked to opine on whether these policies and procedures are consistent with accepted contemporary correctional practices and policies. I was also asked if I would suggest changes to the Proposed Rule and the current practices in order to align the procedures alignment with Federal Bureau of Prison's national classification (PS 5322.12) and disciplinary (PS 5270.09) policies and contemporary correctional practices.

As described in further detail below, it is my opinion that the policies and procedures currently in use at the CMUs and those under the Proposed Rule are not consistent with accepted contemporary correctional practices and policies. Specifically, those policies and procedures allow for CMU designation and the communications restrictions that accompany that designation without advance notice and a hearing. It is also my opinion that providing advance notice and a hearing could improve the Proposed Rule and current CMU procedures without compromising security measures at the CMUs and would create consistency with the well tested principles in Program Statements 5322.12, *Inmate Classification and Program Review*, and 5270.09, *Inmate Discipline Program*.

The conclusions and opinions in this report reflect my careful examination of investigative and administrative documents related to the implementation of the Proposed Rule and the Institution Supplements governing the operation of CMUs. As evaluation of CMUs continues, additional investigative information may become available. If new information becomes available in the course of evaluating these issues, I reserve the right to adjust or modify my findings accordingly. I am charging \$150 per hour plus all expenses for my work on this matter.

II. Qualifications and Materials Reviewed

My name is Walter L. Kautzky. My address is 42 Batesville Dr., Greer, SC 29651. I have worked in the criminal justice and corrections field for nearly 40 years with experience in all aspects of correctional operations and administration including, but not limited to:

- Consultant, trainer, expert witness, and correction services provider 2003-present
- Director of Iowa Department of Corrections 1997-2002
- Deputy Secretary North Carolina Department of Corrections and Assistant Secretary for Construction 1992-1997
- Special Master Hawaii Department of Corrections 1990-1991
- Executive Director Colorado Department of Corrections 1987-1990
- Deputy Secretary and Director of Prisons Washington State Department of Corrections 1982-1986

- Deputy Director of Prisons, Program Services Director, Area Administrator, Psychologist North Carolina Department of Corrections 1971-1981
- Commander Joint Services Stockade Southeast Asia 1970-1971
- Operations Officer United States Disciplinary Barracks 1969-1970
- Classification Officer Florida Department of Corrections 1966

Other correctional positions are detailed in my resume (Attachment A).

My educational background includes a Bachelor of Arts Degree in Psychology and Sociology from Regis College in Denver, Colorado, and a Master of Science Degree in Criminal Psychology from Florida State University in 1966. I served as an officer in the United States Army from 1968 through 1971. I completed the *Government Executives Institute* at the University of North Carolina and the *Management Course* at the American Management Association in New York in 1978. I studied *Strategic Management* at Pennsylvania's Wharton School of Business in 1985 and completed the *State and Local Government Executives Program* at Harvard's Kennedy School of Government in 1987. I completed numerous training programs sponsored by the National Institute of Corrections and the Association of State Correctional Administrators during my years as an agency administrator. I have been a member of the American Correctional Association for over 35 years and have served as a member of a U.S. Department of Justice Bureau of Justice Statistics team researching best practices in correctional agencies.

The opinions in this report are based on my 40-plus years of professional management, operating, and administrative experience in the corrections field. I am knowledgeable about generally accepted correctional standards, policies, practices, and procedures governing correctional facilities, including control units. During my administrative and consultant duties, I have evaluated prison operations and inspected prisons including Special Management Units, special high security housing and administrative segregation units in Arizona, California, Colorado (including the Federal Bureau of Prisons ADX Unit in Florence, Colorado), Florida, Hawaii, Illinois, Iowa, North Carolina, Ohio, Oregon, Massachusetts, Pennsylvania, Texas, Washington. I have toured and inspected Federal Prisons in Colorado, Oregon, the United States Disciplinary Barracks, and a Joint Services Military Stockade in Southeast Asia. I have also toured prisons in Thailand and inspected jails in Toronto, Washington, DC, Washington State, Iowa, North Carolina, Colorado, and the Hawaiian Islands. I have been directly responsible for improving prison and jail operations in the Hawaiian Islands. I have evaluated jail operations in Kansas City, Missouri; Orlando, Florida; San Francisco, California; Memphis, Tennessee; and Grand Rapids, Michigan for policy makers. I have worked with a design team to develop Intensive Management Units to control inmates threatening the orderly operation of the Washington State prison system. In that role I worked directly and individually with the Warden and his staff to develop the policies and procedures governing the notification and assignment of inmates and the conditions of confinement in such facilities. I have also personally worked with design teams and correctional administrators to develop agency policy and the institutional procedures governing control units. I have worked with other administrators to review and improve institutional policies governing control units.

I have been retained as an expert witness in over 40 cases in state and federal courts over the past seven years (see Attachment B). Additionally, I have appeared in court numerous times

in fulfillment of my job responsibilities as a correctional agency administrator and as an expert witness. I have worked on numerous cases in jails and prisons related to the exercise of correctional discretion in the operation of special management facilities and the day to day policies and operation of such special population management facilities. I have authored the papers and articles outlined in Attachment C.

In preparing this report, I have reviewed the materials listed in Attachment D.

III. Summary of Opinions

A. Designating and Transferring Inmates to CMUs Without Notice of Initial Classification and Hearing is Inconsistent with Accepted Contemporary Correctional Practice

The current procedures in the CMUs and the procedures specified in the Proposed Rule provide for the designation and transfer of inmates to CMUs without notice of, or a hearing regarding, that designation. *See* CMU Institutional Supplements; 75 F.R. 17,324. In fact, currently the only “notice” that a CMU inmate is provided is a one-page document given to the inmate after he is designated for and transferred to a CMU. *See* First Amended Complaint Exhibits A, E. It is my opinion that designating and transferring inmates to the CMU without notice of initial classification action and hearing is inconsistent with accepted contemporary correctional practice.

Under current procedures, CMU inmates have significantly reduced telephone and visitation privileges. These restrictions include: a total ban on all contact social visitation, only two 15 minute telephone calls a week, and only two four-hour visits a month. *See* CMU Institutional Supplements.

The procedures under the Proposed Rule are even more restrictive. Under the Proposed Rule, CMU inmates may be limited to one piece of written correspondence a week, consisting of no more than three pieces of paper, double sided, to and from a single recipient. 75 F.R. 17,324 (proposed Apr. 6, 2010) (to be codified at 28 C.F.R. pt. 540); Institution Supplement OPI Unit Manager THX 5321.07B *Operation of the Communication Management Unit* (D Unit, FCI Terre Haute dated 1 September, 2011 pp. 1-6 BOP CMU 001835-001843). The Proposed Rule also allows for a limitation on telephone communication to a single completed call per calendar month that can only last up to 15 minutes and a limitation on visitation to one hour each calendar month. *Id.*

Restrictions such as those currently used at CMUs and conceived under the Proposed Rule are ordinarily authorized only after stringent procedures. For example, an inmate may lose contact visitation or telephone access after being given a disciplinary notice explaining the reason he is being subjected to the restrictions and a hearing at which those reasons can be addressed. CMU restrictions are similar to, if not more severe than the restrictions on inmates housed in the high security Special Management Unit at USP Florence, Colorado. Yet, prisoners assigned to the Florence SMU are afforded significantly more process than CMU inmates.

Like CMU referrals, FLP SMU referral begins with a referral packet sent to the Regional Director. Unlike the CMU, where the Regional Director has lone authority to approve or

disapprove a CMU designation based only on the referral packet, and without having to provide a written explanation for his decision, for FLP SMU designation the Regional Director appoints a hearing administrator, the inmate is given 24 hour prior notice of the hearing along with a detailed explanation of the reasons for his potential designation, a staff member is available to help the inmate prepare documentary evidence, the inmate may appear at the hearing, make a statement, and present a written statement and/or documentary evidence. The Hearing Report goes to the Regional Director who then makes a recommendation and forwards it to Designation and Sentence Computation Center, whether they review that report and consult with the Assistant Director of the Correctional Programs Division. The inmate is given the final report, and may appeal directly to the Office of General Counsel. (Schiavone Deposition p. 212; Program Statement, Special Management Units, P5217.01 dated November 19, 2008 (BOP CMU 2659-2660).

A FLP SMU inmate meets almost immediately with a Review Committee comprised of the Associate Warden, SMU Unit Manager, Captain, Case Management Coordinator, SMU Lieutenant, Special Investigative Services (SIS) Department staff, SMU Case Manager, Psychology Services department staff, and Education Department staff to complete the Admission and Orientation Program. This program familiarizes each inmate with unit staff, unit procedures, expected behavior, and programs available. "Specifically inmates will be informed of behavioral expectations, the disciplinary process, and the requirements for successfully progressing through both levels of the program." Specific behavioral objectives are established and reviewed at 90 day intervals during the 18 -24 months that inmates are expected to complete the program. *See* Institution Supplement FLP5217.01A Special Management Unit dated August 18, 2011, (BOP CMU 001261-001262).

CMUs, however, do not offer this process to inmates. CMU inmates are only provided notification *after* designation to a CMU and are not provided an opportunity for a hearing or to meet with a review committee. *See* CMU Institutional Supplements. Nor are they provided with information about the expected duration of their placement or the behavior necessary to earn their way out. It is my opinion that this *ex post facto* notification is a seriously flawed procedure that undermines sound correctional practice reflected in ACA Standards 4-4252 and 4-4299, and the Federal Bureau of Prisons Program Statement 5322.12 (*Inmate Classification and Program Review*, effective 7-24-2006 and dated 11-29-2006) and Federal Bureau of Prisons Program Statement 5270.09 (*Inmate Discipline Program*, effective 8-1-2011 and dated 7-8-2011).

ACA Standard 4-4252 requires the BOP to conduct "a hearing by the disciplinary committee or hearing examiner" before disciplining inmates by significantly reducing telephone, mail, and visiting privileges below those available in a "general population housing unit." Standard 4-4299 requires the institution to assign a staff member at initial classification to each inmate. In either case, the inmate is advised before transfer that his inmate mail, telephone, and visiting privileges will be dramatically reduced and the reasons for such reductions.

Moreover, BOP Program Statement 5270.09 (*Inmate Discipline Program*) provides the traditional BOP process of advising inmates of charges that may alter their telephone or visiting privilege level. Appendix B requires correctional staff to give notice of charges within 24 hours. BOP Program Statement 5322.12 (*Inmate Classification*) establishes specific severity levels in

the sanctions for the committee to consider before imposing mail, visiting, and telephone restrictions.

Both the current procedures in the CMUs and those under the Proposed Rule are also inconsistent with accepted contemporary correctional practice with respect to periodic review of CMU placement and providing guidance to CMU inmates regarding improving the inmate's chances of being returned to the privilege level available to inmates in general population. Current CMU procedures and section 540.202 of the proposed rule indicate that the Unit Team at the inmate's assigned institution will regularly review whether a CMU designated inmate will continue to be confined in the CMU. The proposed rule implies that the Unit team will be the final decision maker, however, current CMU procedures provide the Regional Director with the authority to overrule a unit teams recommendation without explanation or any written statement of reasons. *See* 75 F.R. 17,324 (proposed Apr. 6, 2010) (to be codified at 28 C.F.R. pt. 540).

Currently, Unit Teams make a recommendation to the warden of the institution, the warden then makes a recommendation to the Counter Terrorism Unit ("CTU"), and the CTU makes a recommendation to the Regional Director of the BOP, who then makes the final decision. In practice, the Unit Team's recommendations are commonly overruled by decision makers farther up the chain, who have little to no involvement with the supervision of the inmate in the CMU. In fact, CTU analyst David Schiavone admitted he intervened in decisions to re-designate Plaintiffs McGowan and Jayyousi to facilities out of the CMU even though those recommendations were supported by both the Unit Team and the warden. (Schiavone Deposition pp. 127 ll. 2-21;144 ll. 7-21; p. 169l. 5-21; p. 182 l. 9-21; p. 187 ll. 3-19; p. 193 ll. 8-21; p. 212 ll. 4- 21;p. 236 ll. 9-18; p. 245 ll. 8-21;p. 247 ll. 13-18;p. 251 ll. 4-21p. 273 ll. 7-17; p. 281 ll. 6-21; p.282 ll. 4-19). The Proposed Rule is silent on the role of the CTU or the Regional Director with respect to re-designation decisions.

In my experience, given the communications restrictions in place, designating inmates to a CMU without notice and a hearing and providing no effective means by which an inmate can demonstrate that such a designation is unnecessary is inconsistent with contemporary correctional standards or BOP exemplary national policies. Even assignment to FLP SMU affords notification, hearings, and review meetings to high risk populations such as organized crime figures, security threat group leaders, drug dealers, and other high security inmates in the custody of the Federal bureau of Prisons. (See FBOP Institution Supplement FLP 5217.01A, *Special Management Unit*, p. 3, Section7). If the traditional classification process for designation and re-designation of the BOP's most challenging offenders provides for these procedural protections, it seems that application of similar procedures to CMU inmates would be more consistent with sound BOP correctional practices.

B. The Proposed Rule Should be Amended to Align CMU Operating Procedures More Closely With BOP Program Statements 5322.12, *Inmate Classification and Program Review*, and 5270.09, *Inmate Discipline Program*

It is my opinion that the BOP can improve the Proposed Rule and current CMU procedures by requiring the CTU to coordinate written notice of transfer to the CMU and a brief hearing following the CTU initial designation process within 24 to 48 hours prior to actual transfer to the CMU. Such a process would be consistent with the well tested principles in

Program Statements 5322.12, *Inmate Classification and Program Review*, and 5270.09, *Inmate Discipline Program*. Simple notice and a brief hearing detailing the criteria used in designating inmates to CMUs would more closely align CMU procedures with national correction policy, as discussed herein. The Notice to Inmate of Transfer form that wardens are required to provide the newly arrived CMU inmate is also deficient. It does not provide sufficient space to document the basic and unique rationale for each inmate's CMU designation. Further, the form should be amended to provide clear notice that CMU assignment results in additional restrictions on telephone use, written correspondence, and visitation.

By adjusting when the notice is given, the contents of the notice, and the addition of a brief hearing before transfer, the BOP will improve its procedure and eliminate burdens on the administrative remedy process that result from explaining to previously uninformed inmates why their privileges are now severely restricted. Since the BOP already knows the inmate's security level and internal risk, this suggested change would be relatively minor, perhaps only involving use of an expanded notice form and a brief hearing prior to transfer by initial classification officers.

It is my opinion that the BOP could also significantly improve the Unit Team process outlined in the Proposed Rule (Section 540.202 (c) (5)) governing re-designation by adopting a process similar to Institution Supplement FLP 5217.01, *Special Management Unit*. That supplement defines a level of expected behavior and the projected timeframe for an inmate to achieve re-designation to another unit with less onerous privilege control. Institution Supplement FLP 5217.01 and BOP's classification policy are exemplary in defining the Unit Team structure and responsibility to build a corrective program even for inmates convicted of terrorism offenses.

The CMU policy, both as currently employed and under the Proposed Rule, is devoid of the corrective direction these other policies do so well. The Proposed Rule (Section 540.202) suggests that inmate re-evaluation and re-designation is left in the hands of the Unit Team which will provide the inmate "notice and an opportunity to be heard." Mr. Schiavone's deposition, however, confirmed that the CTU can, and does, oppose re-designation recommendations made by Unit Teams and wardens based solely on the content of an inmate's original conviction. (Schiavone Deposition p. 108 ll.7-21; p.120 ll. 7-18; p.126 ll.6-18; p. 182 ll.17-21p.187 ll. 3-19; p. 193 ll. 4-21; BOP CMU 005026; 062909; 003280 ;06561; 005010.) Denying re-designation out of the CMU based solely on original convictions leads inmates to reasonably believe that they could remain in the CMU for the entirety of their sentences. The content of the original conviction will not change even if the inmate demonstrates stable behavior while in the CMU.

I am not, however, suggesting that these policies should be followed at the expense of security measures over CMU inmate communications. Allowing the Unit Team to authorize and control visiting and telephone privileges with the advantages of National Security Agency technology or audio and visual security improvements would meet both security goals and corrective goals. CMU inmates would have the opportunity for improvement without diminishing CTU authority or the BOP's control. Opportunities to improve privilege levels provide inmates with something to achieve and something to lose. More importantly it sends a message of fairness to the inmate for changing his behavior in a way that generates positive outcomes. Even a modest change allowing physical contact with family members before or

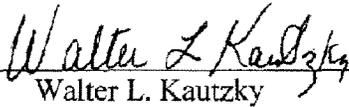
during visitation would support an inmate's presumed and actual renunciation of communication violations in a manner similar to the gang behavior renunciation process that has worked successfully in various states. In the event that the inmate uses communication privileges improperly, the Unit Team retains control under BOP Program Statements P5322.12 and PS 5270.09 to reinstate harsher restrictions.

Both the time frame and the behavior requirements for the inmate to be re-designated to a general population unit are critical to moving CMU inmates toward an alternate and corrective path since they will, in time, return to the community as a citizen of the United States.

* * * *

I, Walter L. Kautzky, make this Unsworn Expert Report and declare that the statements made herein are true and correct to the best of my knowledge.

Dated: November 11, 2013


Walter L. Kautzky

ATTACHMENT A

WALTER L. (KIP) KAUTZKY
42 Bateswood Drive
Greer, South Carolina 29651
(864) 248-0854(H) (515) 778-6231(C)

OBJECTIVE

Advance best practices that improve public safety and government service in state and county correctional systems

EXPERIENCE

CRIMINAL JUSTICE CONSULTANT

February 2006 to present

- Evaluate and research criminal justice issues for attorneys representing clients in matters related to the operation and management of jails and prisons
- Assist legal teams as an expert witness for evaluation of correctional issues requiring depositions and testimony in court regarding correctional issues.
- Assist security firms in developing and improving technology and specifications for prison security systems

LAMBERTI FOUNDATION - EXECUTIVE OFFICER

February 2003 to January 2006

- Manage correctional service and business operations through Bridges of Iowa program to transition long term offenders to community
- Integrate Lamberti Foundation services with Institute for Social and Economic Development and other foundations
- Implement statewide strategy for foundation investment in advanced corrections model supported by community mentors
- Maximize income from property holdings for reinvestment in correctional services.

IOWA DEPARTMENT OF CORRECTIONS

July 1997 to January 2003

Director – policy and operations management with Governor and Legislative leaders to manage a growing prison (8500) and community corrections population (25000) within declining budget limits.

- Work with executive, legislative and community leaders to improve accountability of Iowa's community and institutional corrections system
- Resolve federal and state conditions and services lawsuits
- Expand direct mental health services to high security correctional offenders.
- Construct three new prisons and 3 new community residential facilities

NORTH CAROLINA DEPARTMENT OF CORRECTION

May 1992 to March 1997

- Deputy Secretary (1992)- work with executive, legislative, community leaders, and DOC staff to provide correctional services to 21000 institutional and 105000 community offenders
- Work with Sentencing Commission to develop structured sentencing policy
- Assistant Secretary (1993)- Contract and manage out of state housing for 1800 inmates
- DOC manager of 10,000-bed construction program
- Plan and execute inmate construction of two separate 500 bed facilities
- Manage design build finance process for private correctional facilities.

CRIMINAL JUSTICE CONSULTANT

December 1990 - May 1992

- Private Correctional Facility Company developed for investment banker
- Train senior correctional executives for National Institute of Corrections
- Market correctional design services for Henningson, Durham, and Richardson

HAWAII DEPARTMENT OF PUBLIC SAFETY

November 1989-December 1990

- Special Master to Governor John Waihee
- Execute operational improvements ordered in state jail and correctional facilities
- Negotiate court ordered changes between legislative executive and judicial branches

COLORADO DEPARTMENT OF CORRECTION

January 1987-November 1989

- Executive Director-Responsible to Governor Roy Romer for state correctional agency operations –prisons, community corrections, parole supervision
- Develop interagency initiative for rational sentencing policy
- Negotiate legislative policy changes for mentally ill inmates
- Expand community corrections facilities statewide

WASHINGTON DEPARTMENT OF CORRECTIONS

January 1982-January 1987

- Deputy Secretary – policy and operations management in growing correctional agency under Governors John Spellman and Booth Gardner
- Director of Prisons-Manage policy and operations in 14 facilities
- System wide facility renovation and construction -\$159 million program
- Restore state control to Washington State Penitentiary

NORTH CAROLINA DEPARTMENT OF CORRECTION

March 1971-December 1981

- Deputy Director of Prisons operating 81 facilities housing 16000 offenders
- Coordinate legislative policy governing prison operations
- Plan and execute system wide educational, mental health, work training grants
- Operational management of 11 regional correctional facilities
- Mental health practitioner providing clinical services for offenders

INSTRUCTOR, UNIVERSITY OF GEORGIA

September 1966- July 1968

- Undergraduate teaching—Psychology, Sociology, Criminology

MILITARY BACKGROUND

Commander	Joint Services Stockade, Korat, Thailand	1970-1971
Operations Officer	U.S. Disciplinary Barracks, Ft. Leavenworth, Kansas	1969-1970

EDUCATION

Master of Science	Criminology and Corrections	The Florida State University	1966
Bachelor of Arts	Psychology	Regis College, Denver, Colorado	1965

CONTINUING EDUCATION

National Institute of Corrections	Executive Training Program (ASCA)	2002, 2003
Private Prison Investment Strategies	World Research Corporation Dallas	1996
Harvard University, Kennedy School of Government	State and Local Program	1987
Suemik Company, LTD, San Diego »CA	Management of Construction Delay Claims	1984
American Management Association, Hamilton, NY	- Management Course	1975
University of North Carolina School of Easiness, Chapel Hill, NC	- Executive Institute	1978

PROFESSIONAL AFFILIATIONS

American Correctional Association	National Institute of Corrections (Lecturer)
Association of State Correctional Administrators	North Carolina Correctional Association
American Management Association	Iowa Correctional Association
South Carolina Correctional Association	

COMMUNITY ACTIVITY

Hurricane Emergency Crew Volunteer	Migrant Worker Assistance Program
Community Resource Developer	Food Bank Volunteer
Secretary Non Profit Outreach Program	

ATTACHMENT B

Expert Witness Cases: W. L. Kautzky

Young v. John Ashcroft, Harley Lappin, et. al.

Civil Action CV-03-1308-BR

United States District Court: Western District of Oregon

Expert Witness for Plaintiff 2004

Mark Jordan v. Federal Bureau of Prisons

Civil Action 03-2320

United States District Court: District of Colorado

Expert Witness Deposed for Plaintiff 2005

Waldrup v Jewett

Cause No. H-01-1902

United States District Court: Southern District of Texas

Deposed and at Trial: Expert Witness for Plaintiff 2005

Barbee v. Jefferson County

Matter ID: 04419-004992

United States District Court: Western District of Washington

Expert Witness for Jefferson County 2005

Jury Verdict for Jefferson County

Goff v. Branstad

73F .3d 174, 175 (8th Circuit 1995)

United States District Court; Southern District of Iowa

Expert Witness for Defendant – Expert Report Court Testimony for Defendant Court Order

Compliance 1997-2001

Thomas Tom v. Babbitt

Civil Action No. 94-K-1242 (D. Colo.)

U.S. Magistrate Judge for Ute Indian Reservation

Served as Expert for Defendant at site and report regarding design and operation of Detention Facility in Towaoc, Colorado 1995

Ramos v. Colorado Department of Correction

1983 10th Circuit 152 713 F.2d 546 Case Numbers: 82-1544 Case Numbers 82-1531, 82-1544

Decided: 06/15/1983 10th Circuit Court of Appeals

United States District Court: District of Colorado

Expert Witness for Defendant – Testify before court in Compliance Hearings 1989

Coleman v. Schwarzenegger

Civil Action S-90-0520 LKK JFM P

United States District Court: Eastern District of California

Expert Witness for Plaintiff Class -- Mentally Ill Inmates in California Department of Corrections
2006

Estate of Rentz, et al. v. Spokane County

U.S.D.C. Eastern District

Case No. CV-05-83-AAM

Expert Witness Deposed for Plaintiff 2008

Case Settled – 2008

James Q. Wilkinson, Plaintiff vs. Eldon Vail, et al.

USDC, WD Cause No. CO5-5656 JKA

Thurston County Superior Court Cause No. 05-2-02407-8

Expert Witness Deposed for the State of Washington 2007

Case Settled following Deposition 2007

Billy Soza Warsoldier, Plaintiff v. Jeanne Woodford, Director of the California Department of Corrections, et al.

United States District Court for the Central District of California

District Court No. CV 04-02233-RSWL

United States Court of Appeals for the Ninth Circuit No. 04-55879

Expert Witness for the Plaintiff 2006

Estate of Tyler M. Shaw v. Asotin County

Verified Claim for Damages

Expert Witness for Plaintiff 2007

Armstrong v. Schwarzenegger

Case No. 94-2307 CW

Reply Declaration in Support of Plaintiff's Motion for Enforcement and Further Remedial Orders

William Rentz v. Spokane County

Case No. CV 05083-LRS

Declaration in Support of Plaintiff

Deposed for Plaintiff 2008

Abdullah Al Kidd v. Alberto Gonzales, Attorney General of the United States et al.

Case No. CV05-93-EJL

Expert Witness Report

Deposed for Plaintiff 2007

Kari Sundstrom, Andrea Fields, and Lindsey Blackwell v. Mathew J. Frank, et al.

Case No. 06-C-0112

Expert Witness Report

Deposed for the Plaintiff 2007

Kinsman v. Lantz

Case No. 07CV703 (JCH)

Expert Witness Report for Defendant—Connecticut Department of Corrections

Settled 2008

Disability Law Center v. Dennehy

Case No. 07-CV-10463-MLW

Expert Witness for the Plaintiff June 2010

Gary Schlund, Personal Representative of the Estate of Ivy Larae Schlund et al. v. Western Montana Mental Health Center

Case Number DV 06-88

Expert Witness for Plaintiff

Case Settled May 2008

Stephanie A. Nilsson-Baril v. Scott Burnheimer, Superintendent Maine Correctional Center; Martin Magnuson, Commissioner, et al.

Civil Action No. 07- CV- 00098

Expert Witness for Plaintiff

Case Settled March 2008

Courtney E. Countee IV, Plaintiff v. County of Sacramento, Lou Blancas, et al.

Complaint for Violation of Civil Rights, Conspiracy to Violate Civil Rights, Supplemental State Claims

United States District Court Eastern District of California

Expert Witness for Plaintiff

Estate of Steven Samuels v. Spokane County

Case Number Spokane County Superior Court No. 07-2-00883-1

Expert Witness for Plaintiff 2007

Case Settled following Expert Report

Timothy Thomason v. City and County of Denver; Denver Department of Health and Hospitals, D/D/A “Denver Health Medical Center”: Joseph Cleveland, individually; Nancye Zimmer, individually.

Case Number Civil Action No. 1:07-cv-01715-MSK-MJW

United States District Court –District of Colorado

Expert Report for Plaintiff 2008

Expert Report for Plaintiff—Case settled for Plaintiff

Sherry Andrews, Personal Representative for the Estate of Misty Ford; Alyssa Ford, beneficiary of the estate and individually, and Nicole Ford, beneficiary of the estate and individually, and Ethel Ford, individually

v. The United States of America; Correctional Officer Clifford Matherly, an individual; Correctional Officer Clarice Matherly, an individual; Katherine Whipple, M.D., an individual and DOES 1-10

Civil Action No. 2:07-CV-00361-FVS

United States District Court – Eastern District of Washington

Expert Report for Plaintiff 2008

Tonelli v. Autry et al.

USDC WDC

Cause No. C06-698 TSZ-JPD

Expert Witness Report for Defendant 2008

Deposed for Defendant Washington State

Case Settled

Narciso Morales v. State of California Department of Youth Authority

Delwyn Brown et al.

Case No. CV 02505

Superior Court of State of California

Expert Report for Plaintiff

Deposed for Plaintiff November 2009

State of Arizona v. Michael Gallardo

CR2006-175408-001DT

Expert Witness on Conditions of Confinement in

Maximum Security –Administrative Holding Unit

Criminal Trial Testimony --Sentencing Phase

Expert Report for State of Arizona Public Defender

Testify at Trial 2009

Darin Demetrius Greene v. Lt. Peggy Rourk et al. Solano County Jail

Case No. 2:04CV 00917 MCE DAD

Expert Report for Plaintiff in Opposition to Summary Judgment 2009

Philip Cortez v. Arizona Department of Correction

Case Number Pending

Expert Report for Plaintiff 2009

Deposition to be scheduled 2011

David Velez v. Linn Kamin, Russell Kuchta and Robin Norton

Wisconsin Department of Corrections

Case Number 09 CV 249

Case Review and Expert Report for Plaintiff 2010

McKinley Johnson v. Hawaii Department of Correction

Deputy Attorney General Miriam P. Loui

Case Number Civil No. 07-1-0085-01 BIA

Expert Witness for Hawaii Department of Public Safety 2010

Case Settled

Lemire et al. vs. Arnold Schwarzenegger et al.

Case No. 2:08-CV-00455-GEB- EFB

Attorney Geri Lynn Green LC

Expert Witness for the Plaintiff 2010

David McGee et al. v. Robert Hofmann, Commissioner Vermont Department of Correction

Case No. 1:04-CV-335

Attorney Dawn Seibert

Expert Witness for Plaintiff Class 2010

Summary Judgment

Carl Garcia v. Board of County Commissioners for Mesa County, Colorado

Stanley Hilkey, in his official capacity as the Sheriff of Mesa County

Correctional Healthcare Companies, Inc.;

Correctional Healthcare Management, Inc.;

Dee Yenter, R.N., individually;

Leah Thrailkill, individually;

Lieutenant Doe, a Mesa County Sheriff individually;

Civil Action No. 09-CV-JLK-LTM

Expert Witness for the Plaintiff 2010

Anna Katzeek, a personal Representative of Estate of Janice M. Katzeek,

Plaintiff v. City and Borough of Juneau, Bartlett Regional Hospital, Juneau Police Department,

State Of Alaska, Alaska Department of Corrections, Juneau Alliance for Mental Health, Richard

Siverly and John Does (names unknown), Defendants

Case Number 1JU-08-364CI

Attorney Vance Sanders

Expert Witness for Plaintiff 2012

Phi Thi Nguyen, individually and Vy Viet Tran individually and as personal representative of the Estate of Vuong Quang Tran, Plaintiffs v. County of Clark, Sheriff Garry E. Lucas, et al.

Case Number: C10-5267 BHS

Attorney Sarah S. Mack -Patterson Buchanan Forbes, Leitch, & Kalzer, PS

Expert Witness for Defendant

The Estate of Sandra Joe Knight, deceased, by and through, Administrator Barbara A. Denny v. Yakima County Department of Corrections; Yakima County; Con-Med Healthcare Management, Inc; Con-Med Inc.; Central Washington Comprehensive Mental Health; ABC Corporations Nos. 1-100; John and Jane Does Nos. 1-100

Case Number: 11-2-00015-9

Attorney West H. Campbell Velikanje Halverson, P.C.

Expert Witness for Defendant Yakima County Department of Corrections 2011

Leigh Allen Weeden v. United States of America Federal Bureau of Prisons

Case Number CIV -10-00600 TUC-AWT (JJM)

Attorney Steven Portell Haralson, Miller, Pitt, Feldman, & McNally PLC

Expert Witness for Plaintiff 2011

Estate of Damian A. Long through Personal Representative Donna J. Long v. Yakima County

Case Number CV -10-3093 EFS

Attorney West Campbell Velikanje, Halverson, PC

Expert Witness for Defendant 2012

Estate of Ryan Michael Gladstone v. Franklin County Washington

Case No. Amended Tort Claim

Attorney Christopher Mertens, Attorney

Miller, Mertens, Comfort, Wagner, PLC

Expert Witness for Defendant 2012 (

Deposed for Defendant Franklin County

Frances Henderson, natural mother of deceased Shannon Palmer v. State of Arizona, a public entity; Arizona Department of Corrections, an agency of the State of Arizona; Charles L. Ryan; Quency D. Owens, et al.

Attorney Ron Ozer Ely, Bettini, Ulman, and Rosenblatt, PLC

Case Number CV 2011-011906

Expert Witness for the Plaintiff 2012

Denise Kitchen, Individually, and as a Representative of the Estate of Gregory Maurice Kitchen, Deceased vs. Dallas County, Texas and Callas County Detention Officers Anthony Benso, David Garrett, Gregory Myers, David Roberts, Rene Guzman, Ta'Mon Haggerty, Ollie Polk, Jr., Jeree Hall, Marquita Gray, Jeremiah Mosely

Civil Action No. 3:10CV01779-P

Attorney Marion V. Cruz

Cochran, Cherry, Givens, Smith, and Montgomery, LLC.

Expert Witness for Plaintiff

Chad E. Bolstad v. State of Washington Department of Corrections; Crispin I. Juguilon, M.D.; John Smith, M.D. P.S. a Washington Corporation; and Frank John Smith, M.D.

Civil Action No. 12203278

Expert Witness for the Defendant State of Washington Department of Corrections

Yassin Muhiddin Aref and Daniel McGowan and Royal Jones and Kiffah Jayyousi, Plaintiffs v. Eric Holder, Attorney General Department of Justice and Charles E. Samuels, Director of Federal Bureau of Prison, et.al. Defendants
Civil Action No. CIV -10-0539 (RMU)
Expert Witness for the Plaintiff Inmates

ATTACHMENT C

Publications by W. L. Kautzky

Washington State Department of Corrections An Overview of Current System Challenges and Opportunities

Chapter on Prison Operations and Conditions in a collaborative statewide study
Washington State Department of Correction published by the Office of the Governor
2005

Preventing Sexual Assault in Jails and Juvenile Institutions - Building Blocks for a Model Program Research team member with Colorado Department of Public Safety completing publication to assist correctional agencies in managing sexual assault. Site based research in progress. National Institute of Justice 2005

Sentencing Policy --Balancing Iowa Corrections Services and Demand

Presentation and materials published by the Des Moines Register 2001

Emerging Correctional Service Issues in Iowa

Paper published for presentation to the Iowa Bar Association June 2001

Iowa Sentencing Models Policy paper published for presentation to the Joint Legislative Sentencing Commission April 1999

Operation of the Adak Island Naval Air Facility as a Correctional Facility: Challenges and Development Strategies Report prepared for Economic Research Associates and published for the Aleut Indian Tribe Board of Directors 1997

Managing Change in a Correctional System

Chapter and training material published for presentation to the National Institute of Corrections 1990

The Correctional Challenge in Hawaii

Special Master Report published for presentation to the Hawaii Legislature 1990

Aloha Time – The Hawaii Correctional System in Transition

Article and materials presented as a case study – National Institute of Corrections 1990

Correctional Intervention in North Carolina – A System in Responsive Transition

Article and materials presented to the United States Commission on Civil Rights 1986

Public Policy—Management of Maximum Security Disruptive Inmates

Report prepared for presentation to U. S. District Court in case involving the design and construction of Intensive Management Units in Washington State 1989

ATTACHMENT D

DOCUMENT REVIEW

To guide the development of this report, I reviewed the following documents regarding the movement of inmates and the conditions of confinement in the Communication Management Units as allowed by Federal Bureau of Prison program Statement 5321.07B:

1. First Amended Complaint with Exhibits Civil Action No. 10-CV-539 (RWR) (DAR) dated September 5, 2012, pp. 1-115 plus exhibits.
2. Protective Order Yassin Aref et al. v. Eric Holder et al. pp. 1-10.
3. Declaration of Leslie Smith, Chief Counter Terrorism Unit dated June 22, 2012 pp. 1-12.
4. Institution Supplement Special Management Unit Federal Correctional Complex High Security Institution Federal Correctional Complex Florence Colorado; OPI Legal Services, FLP 5217.01A dated August 18, 2011pp.1-10 BOP CMU 01260-269.
5. Institution Supplement OPI Unit Manager THX 5321.07B Operation of the Communication Management Unit (D Unit), FCI Terre Haute dated September 1, 2011 pp. 1-6 BOP CMU 001835-001843.
6. Institution Supplement Special Management Units 5217.01 U. S. Penitentiary Lewisburg, Pennsylvania, dated March 2011 pp. 1-5 BOP CMU 064410-064414.
7. Institution Supplement Special Management Units 5217.01B Federal Correctional Complex Oakdale, Louisiana, dated January 25, 2011 pp. 1- 10 BOP CMU 064542-064551.
8. Institution Supplement Special Management Units TDG 5217.01B Federal Correctional Complex Talladega, Alabama, dated 30 December, 2010, pp. 1-11 BOP CMU 064666-064676.
9. Special Management Unit Inmate Handbook USP Lewisburg, Pa. dated February 2012, pp. 1-41 BOP CMU 067358-067398.
10. Deposition of Janet L. George dated July 26, 2013 at Federal Bureau of Prisons, 400 State Avenue, Suite 800, Kansas City, Kansas before Louise R. Bell Registered Professional Reporter. pp. 1-89.
11. Institution Supplement United States Penitentiary Marion, Illinois OPI: Communication Management Unit Number MAP 5321.07A. November 13, 2008 Subject: Operation and Security of the Communication Management Unit I Unit), pp. 1-8.
12. Notice to Inmate of Transfer to Communication Management Unit MAR 5321.07A for following Inmates:

Yassin Muhiddin Aref	01277-052	May 11, 2007
Twitty Avon	00281-000	May 30, 2007
Daniel McGowan	63794-053	September 3, 2008
Royal Jones	04935-046	June 17, 2008
Kifah Jayyousi	39551-039	June 18, 2008
13. U.S. Department of Justice Memorandum to Regional Directors: Referrals for Communication Management Units from Joyce K. Conley, Assistant Director dated March 5, 2008.

14. Deposition of David Schiavone by Attorney Rachel Meeropol, Center for Constitutional Rights, Eileen Citron from Weil, Gotshal, and Manges, U. S. Department of Justice Attorneys Nicholas Cartier, Nathan Swinton, Timothy Johnson dated August 8, 2013 reported by Bonnie Olachea pp. 1-410 with attachments.
15. Program Statement Administrative Remedy Program OPI: OGC/LIT No. 1330.17 August 20, 2012, pp. 1-16.
16. Exhibits (44) attached to David Schiavone Deposition marked 0000000 thru 0000112.
17. Deposition of Paul Kelly taken in Natchez, Mississippi, on August 21, 2013, by Kelly D. Brentz, CSR, RPR Attorney for Plaintiff Chauniqua D. Young and Eileen H. Citron, Weil, Gotshal, and Manges LLP; Attorneys for Defense U. S. Department of Justice Civil Division Nicholas Cartier, Nathan Swinton and USDOJ FBOP Ann H. Zgrodnik pp. 1-159.
18. U.S. Department of Justice Office of the Inspector General Report Number I 2006-009 entitled The Federal Bureau of Prisons' Monitoring of Mail for High Risk Inmates dated September 2006, pp1-122.
19. Constitutional Rights of Prisoners 9th Edition by John W. Palmer, J.D. Anderson Publishing 2010 pp. Chapter 4 Prisoners' Rights to Visitation pp. 49-67; Chapter 5 Prisoners' Right to Use of the Mail, Internet, and Telephone pp. 69-98.
20. Standards for Adult Correctional Institutions 4th Edition American Correctional Association July 2003 Standards 4-4252, 4-4266, 4-4267, 4-4271.
21. Federal Bureau of Prisons Program Statement 5100.08 Inmate Security Designation and Custody Classification dated 9-12-2006.
22. Federal Bureau of Prisons Program Statement 5322.12 Inmate Classification and Program Review effective July 24, 2006 dated November 29, 2006.
23. Federal Bureau of Prisons Program Statement 5270.09 Inmate Discipline Program effective 8-1-2011 dated 7-8-2011.
24. Federal Bureau of Prisons Program Statement 5267.08 Visiting Regulations dated 5-11-2006.
25. Deposition of Bradley Shoemaker by Attorneys for Plaintiffs Robyn Lewis and Andrey Spector Weil Gotshal and Manges LLP; Attorneys for Defendants Timothy A. Johnson, Nicholas Cartier, U. S. Department of Justice Civil Division; Anna Zrodnick Rena Desai, U.S. Department of Justice Federal Bureau of Prisons by Reporter Janine Ferren, PRP on August 16, 2013, pp. 1-42.
26. U. S. Department of Justice Bureau of Prison 28 CFR 540 Proposed Rule Communication Management Units Federal Register Vol. 75 April 6, 2010 pp. 17324-17329.)
27. Federal Bureau of Prisons Program Statement P5217.01 CPD/CSB Special Management Units dated 11-19-2008 pp. 1-12 BOP CMU 002658 pdf.
28. U. S. Department of Justice Federal Bureau of Prisons USP Marion Institution Supplement OPI: Communication Management Units Manager Number MAR-5321.07 Operation and Security of the Communication Management Unit (I Unit) dated August 29, 2011 BOP CMU 000724 pdf.

EXHIBIT 97

PROTECTED ATTORNEYS EYES ONLY

U.S. Department of Justice



Federal Bureau of Prisons

Washington, D.C. 20534

July 24, 2009

MEMORANDUM FOR MICHAEL K. NALLEY, REGIONAL DIRECTOR
NORTH CENTRAL REGIONAL OFFICE

FROM:

Joyce K. Conley
Joyce K. Conley, Assistant Director
Correctional Programs Division

SUBJECT: Review of Inmates for Continued CMU Designation.

Inmates designated to Communication Management Units (CMU) must be regularly reviewed according to standard criteria to determine whether CMU designation remains necessary. Please implement the following procedures at the CMUs in your region, including posting of the attached "Notice to Inmates" within CMUs.

- (1) Review of inmates for continued CMU designation will be conducted by the Unit Team in connection with regularly scheduled program reviews. Inmates are provided at least 48 hours prior notice of scheduled program reviews, are expected to attend, and can personally raise questions and concerns with Unit Team regarding their placement in the CMU.
- (2) In determining whether continued CMU placement is necessary, the Unit Team will consider whether the original reasons for CMU placement still exist, including whether:
 - (a) The inmate's current offense(s) of conviction, or offense conduct, included association, communication, or involvement, related to international or domestic terrorism;

-1-

~~PROTECTED ATTORNEYS EYES ONLY~~

- (b) The inmate's current offense(s) of conviction, offense conduct, or activity while incarcerated, indicates a propensity to encourage, coordinate, facilitate, or otherwise act in furtherance of, illegal activity through communication with persons in the community;
 - (c) The inmate has attempted, or indicates a propensity, to contact victims of the inmate's current offense(s) of conviction;
 - (d) The inmate committed prohibited activity related to misuse/abuse of approved communication methods while incarcerated; or
 - (e) There is any other evidence of a potential threat to the safe, secure, and orderly operation of prison facilities, or protection of the public, as a result of the inmate's unmonitored communication with persons in the community.
- (3) Reviews for continuing CMU designation are done in a manner consistent with sound correctional judgement and security threat management practices. Additional information to be considered includes whether the original rationale for CMU designation has been mitigated, whether the inmate no longer presents a risk, and that the inmate does not require the degree of monitoring and controls afforded at a CMU.
- (4) Unit Team staff will forward their recommendations to the Warden. With the concurrence of the Warden, recommendations will then be forwarded to the Bureau's Counter Terrorism Unit (CTU) for review of individual inmate cases. The CTU will forward the final recommendation to the Regional Director, North Central Region, for further review and consideration. The Regional Director, North Central Region, has final authority to approve an inmate's re-designation from a CMU.
- (5) Inmates denied re-designation from a CMU will be notified in writing by the Unit Team of the reason(s) for continued CMU designation. Inmates not satisfied with the re-designation decision, or any other aspect of confinement in the CMU, can appeal the decision or situation through the administrative remedy program. The inmate's Unit Team can provide the necessary form(s).

~~PROTECTED ATTORNEYS EYES ONLY~~

(6) Once an inmate is approved for re-designation by the Regional Director, North Central Region, a referral packet is prepared for the DSCC containing:

- Request for Redesignation Memorandum (drafted by the CTU).
- Approval memo signed by North Central Regional Director.

Approval is noted in SENTRY on the inmate's "CIM Clearance and Separatee Data" by a Designator at DSCC, who also loads the re-designation.

(7) Inmates approved for transfer from a CMU are ordinarily re-designated to either FCI Terre Haute, IN (for THA CMU inmates) or USP Marion, IL (for MAR CMU inmates), general population, for a period of no less than 6 months, as a step-down process from the CMU, if they meet security and custody classification requirements for a medium security facility.

(8) Inmates requiring placement in a high security institution are ordinarily re-designated to USP Terre Haute for no less than 6 months, as a step-down process from the CMU.

(9) Should the inmate's programming and conduct remain appropriate after transfer from a CMU, he can be considered eligible for transfer to another appropriate security level facility.

cc: D. Scott Dodrill, Regional Director, NERO

NOTICE TO INMATES

Review of Inmates for Continued CMU Designation

- (1) Review of inmates for continued CMU designation will be conducted by the Unit Team in connection with regularly scheduled program reviews. Inmates are provided at least 48 hours prior notice of scheduled program reviews, are expected to attend, and can personally raise questions and concerns with Unit Team regarding their placement in the CMU.
- (2) In determining whether continued CMU placement is necessary, the Unit Team will consider whether the original reasons for CMU placement still exist, including whether:
 - (a) The inmate's current offense(s) of conviction, or offense conduct, included association, communication, or involvement, related to international or domestic terrorism;
 - (b) The inmate's current offense(s) of conviction, offense conduct, or activity while incarcerated, indicates a propensity to encourage, coordinate, facilitate, or otherwise act in furtherance of, illegal activity through communication with persons in the community;
 - (c) The inmate has attempted, or indicates a propensity, to contact victims of the inmate's current offense(s) of conviction;
 - (d) The inmate committed prohibited activity related to misuse/abuse of approved communication methods while incarcerated; or
 - (e) There is any other evidence of a potential threat to the safe, secure, and orderly operation of prison facilities, or protection of the public, as a result of the inmate's unmonitored communication with persons in the community.
- (3) Reviews for continuing CMU designation are done in a manner consistent with sound correctional judgment and security threat management practices. Additional information to be considered includes whether the original rationale for CMU designation has been mitigated, whether the inmate no longer presents a risk, and that the inmate does not require the degree of monitoring and controls afforded at a CMU.

- (4) Unit Team staff will forward their recommendations to the Warden. With the concurrence of the Warden, recommendations will then be forwarded to the Bureau's Counter Terrorism Unit (CTU) for review of individual inmate cases. The CTU will forward the final recommendation to the Regional Director, North Central Region, for further review and consideration. The Regional Director, North Central Region, has final authority to approve an inmate's re-designation from a CMU.

- (5) Inmates denied re-designation from a CMU will be notified in writing by the Unit Team of the reason(s) for continued CMU designation. Inmates not satisfied with the re-designation decision, or any other aspect of confinement in the CMU, can appeal the decision or situation through the administrative remedy program. The inmate's Unit Team can provide the necessary form(s).

EXHIBIT 98



Institution Supplement

OPI: Communication Management Unit
NUMBER: MAR-5321.07C
DATE: September 28, 2009
SUBJECT: Operation & Security of the Communication Management Unit (I Unit)

1. **PURPOSE AND SCOPE** This Institution Supplement establishes guidelines and procedures for the operation and security of the Communication Management Unit (CMU) in I Unit, at the United States Penitentiary, Marion, Illinois.

The CMU is established to house inmates who, due to their current offense of conviction, offense conduct, or other verified information, require increased monitoring of communication between inmates and persons in the community in order to protect the safety, security, and orderly operation of Bureau facilities, and to protect the public.

The CMU is a self-contained general population housing unit where inmates reside, eat, and participate in all educational, recreational, religious, unit management, and work programming within the confines of I Unit. Additionally, the unit contains a block of cells located on B Range which are dedicated to segregated housing for those inmates in need of being placed in administrative detention or disciplinary segregation status. All National policies applicable to general population inmates apply with conditions specified within the supplement.

2. **DIRECTIVES AFFECTED**

A. **Directives Referenced**

P.S. 1330.16, Administrative Remedy Program (August 23, 2001)

B. **Directives Rescinded**

MAR-5270.07B, Operation & Security of the Communication Management Unit (June 4, 2009)

3. **RESPONSIBILITY AND AUTHORITY**

- A. **ADMISSION & ORIENTATION / CLASSIFICATION AND REVIEWS:** The executive assistant is responsible for administering the Admission and Orientation Program (A&O). The purpose of the program is to familiarize each inmate with the unit staff, unit procedures, expected behavior, and programs available. All items on the A&O Checklist will be covered and the checklist will be utilized for verification of participation. As part of A&O, I Unit

inmates will receive a copy of this Institution Supplement and an I Unit A&O Handbook. A&O has been recorded on a DVD and will be presented to each inmate in I Unit.

Within five calendar days of arrival, I Unit inmates will be provided a "NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT" form indicating the reasons for their placement in the unit. A blank copy of the form is included with this Institution Supplement, Attachment "A". Ordinarily, inmates will need to spend a minimum of 18 - 24 months in a CMU.

Classification and reviews of I Unit inmates will occur according to national policy. Reviews for an inmate to be considered for transfer out of a CMU will commence with the first Unit Team meeting after the inmate has spent a minimum of 18 months in the unit, but less than 24 months. Subsequent reviews will be conducted at six month intervals. A review for transfer from a CMU will be conducted in a manner consistent with sound correctional judgement and security threat management practices. The review will include a number of factors, including an assessment of the threat posed by the inmate, whether the inmate presents a risk of harm to others or to the orderly operation of the institution, and whether the inmate still requires the degree of security and monitoring afforded at a CMU. Inmates are expected to maintain clear conduct and have no sanctioned incident reports for the 18-24 months period to be recommended for transfer. After conducting the review, the Unit Team may recommend to the Warden that an inmate be transferred out of the CMU. A record of each review conducted shall be kept in the inmate's central file.

B. CONTACT WITH PERSONS IN THE COMMUNITY: The purpose of the CMU in I Unit is to provide increased monitoring of communication of the inmates assigned to it. By operating a self-contained housing unit, staff may adequately regulate and monitor all communications between inmates and persons in the community.

(a) Written Correspondence. Mail call is held Monday through Friday between the hours of 12:00 p.m. - 2:00 p.m. You must be present to receive your mail. Mail leaving the institution must be hand-delivered to unit management staff. Mail leaving the institution must contain a return address which includes your name and register number. Legal and special mail will ordinarily be delivered by the Case Manager. Out going special mail (i.e., attorney, federal courts, probation officers, etc.) may be sealed, and delivered to the unit management staff during mail call hours.

(b) Telephone Communication. All telephone communication between inmates and persons in the community (except properly placed, unmonitored legal calls) will:

- (1) be conducted using monitored ITS phone lines;
- (2) be live-monitored by staff;
- (3) be recorded;
- (4) occur in English-only (by both the inmate and community call-recipient) unless previously scheduled for and conducted through simultaneous translation monitoring;
- (5) be limited to a single 15 minute call per week;

- (6) be scheduled Monday through Friday, excluding federal holidays between the hours of 8:00 a.m. and 2:30 p.m.

Persons from whom an inmate requests placement on the approved telephone list must complete the "**Acknowledgment of Conditions for Telephone Contact with Inmates in the Communication Management Unit, USP Marion,**" form included with this institution supplement as Attachment "B", as proof of their acknowledgment and acceptance of these conditions. Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In the event of terminated calls, inmates may be subject to disciplinary action, and the person may be removed from the inmate's approved telephone list.

(c) Visiting. All visiting between inmates and persons in the community (except properly scheduled, unmonitored legal visits) will:

- (1) be conducted in the main visiting room using non-contact facilities (i.e., secure partitioned rooms, telephone voice contact);
- (2) be live-monitored;
- (3) be subject to recording;
- (4) occur in English-only (by both inmate and visitor) unless previously scheduled for and conducted through simultaneous translation monitoring;
- (5) Nonverbal communication (i.e. hand signals, sign language) may result in termination of the visit;
- (6) be scheduled Monday through Friday, excluding federal holidays between the hours of 8:30 a.m. and 3:00 p.m. Each inmate is authorized four hours of visiting each month (two 2-hour visits or one 4-hour visit.)

Any violations may result in immediate termination of the visit. Persons for whom an inmate requests placement on the approved visiting list must complete the "**Acknowledgment of Conditions for Visiting with Inmates in the Communication Management Unit, USP Marion,**" form included with this Institution Supplement as Attachment "C," as proof of their acknowledgment and acceptance of these conditions.

4. HOUSING CONDITIONS / UNIT PROGRAMS / SERVICES:

(a) Cell Assignments: Ordinarily, I-Unit inmates will be housed in single bunk cells. The unit contains a range of cells dedicated to segregated housing of those inmates in need of being placed in administrative detention or disciplinary segregation status. Cells I02-010L thru I02-016L are designated as segregation housing for I-Unit inmates placed in administrative detention status or disciplinary segregation status.

(b) Health Services: Health Services staff will provide sick call in the morning on Monday, Tuesday, Thursday and Friday in the unit examination room. Medications will be delivered and/or administered in the unit twice daily. In the event there are no medication(s) for delivery on the evening shift, staff will not conduct same in the unit. Inmates may request to be seen by a physician. Specialized services may be provided in the institutions's main health services unit as needed.

(c) Mental Health Services: Psychology staff will make regular rounds within the unit. Inmates may request to be seen by psychology staff, which will occur within the unit.

(d) Meals: All inmate meals will be served and consumed in the unit. Food from the Food Service line may not be stored in inmate cells.

(e) Education/Recreation Services: Inmates will ordinarily be permitted to leave their cells and participate in activities in the unit from 6:00 a.m. to 9:45 p.m., except during counts.

A basic leisure and law library are located within the unit. Additional materials may be accessed by using the electronic law library. A photocopier has been provided for inmate use at their expense.

Inmates will be provided table games such as chess, checkers and cards. Hobby craft opportunities will also be provided.

Earphones will be utilized when playing radios at all times. Radios may be played on the recreation yard, walkways during off duty hours, and in individual inmate cells. Alteration of a radio is not permitted and will be confiscated as contraband.

Televisions are available in the unit for viewing. The recreational areas contain various recreation activities to include handball, basketball courts, sit up benches, stationary bikes, stair-stepping machines, and walking.

(f) Religious Services. Religious service opportunities will be provided in the unit.

(g) Ice Machine: An ice machine is provided. This area must be kept clean at all times. Water drainage lines must remain unclogged and will not be used to dispose of food items. The ice machine may be turned off for an indeterminate amount of time if contraband is found in this area.

(h) Commissary/Trust Fund Operations. Commissary purchase forms will be issued on Tuesday of each week by unit management staff. After completion of the forms they will be hand-delivered by staff to the commissary for processing by COB Wednesday. The commissary items will be delivered to the unit and handed out by commissary staff on Thursday of each week. Any special purchases (personal radios, etc.) must be approved by

unit management staff. Commissary items will be neatly stored in your assigned locker ONLY. Under no circumstances are commissary items to be stored on the floor. Items not contained in their original container are considered contraband and will be confiscated. Original containers are to be disposed of when empty and will not be used for other purposes.

(i) Sanitation/Personal Hygiene. I Unit inmates are responsible for sanitation of their living areas. Unit orderly job assignments will be made by the unit staff. Clean, serviceable clothing will be issued to each inmate upon his arrival to the unit. Unit laundry service are available in the unit. I Unit inmates are responsible for laundering their own personal clothing. Barber services for I Unit will be conducted within the all inmates are required to make their beds, clean their rooms, empty their trash containers and turn off their lights prior to leaving for work, on a daily basis. Daily inspections will be made by unit staff for cleanliness and sanitation unit.

Each inmate will be issued basic hygiene items. Additional items may be purchased by the inmate from the institution commissary. Inmate showers are available. Staff will make regular rounds within the unit to assure proper sanitation is being maintained.

(j) Work Assignments. All work assignments will be made by the unit team.

5. **ADMINISTRATIVE REMEDY PROGRAM:** You may appeal your transfer to I Unit, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. 542.10 through 542.19, and Program Statement 1330.16. Unit staff will provide you with the necessary form upon request.

6. **EFFECTIVE DATE:** This supplement is effective upon issuance.

Date

//s//
Lisa J. W. Hollingsworth, Warden

Attachment A

NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate Name (Last, First, Middle):	Register Number:
Warden (print and signature): Lisa J. W. Hollingsworth, Warden	Institution: USP Marion, Illinois

NOTICE: This notice informs you of your transfer to a Federal Bureau of Prisons (Bureau) facility that allows greater management of your communication with persons in the community through more effective monitoring of your telephone use, written correspondence, and visiting. Your communication by these methods may be limited as necessary to allow effective monitoring. Your general conditions of confinement in this unit may also be restricted as necessary to provide greater management of your communications. Your transfer to this unit, by itself, will have no effect on the length of your incarceration. You will continue to earn good-conduct sentence credit in accordance with Bureau policy.

Your transfer to this facility under these conditions is based on the following specific information:

Based on this information, your transfer to this facility for greater communication management is necessary to the safe, secure, and orderly operation of Bureau institutions, or protection of the public. Your continued designation to this facility will be reviewed regularly by your Unit Team under circumstances providing you notice and an opportunity to be heard, in accordance with the Bureau's policy on Classification and Program Review of Inmates.

OPPORTUNITY TO APPEAL TRANSFER DECISION - You may appeal this transfer decision, or any conditions of your confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. §§ 542.10 through 542.19, and corresponding policy. A member of your Unit Team will provide you with the necessary form upon request.

MAR-5321.07C
Page 7

September 28, 2009

INSTRUCTIONS TO STAFF - Provide the inmate a copy of this form and complete the following information documenting delivery.

Staff Member Name and Position (printed):	Staff Member (signature):	Date Issued:
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Attachment B

**ACKNOWLEDGMENT OF CONDITIONS FOR TELEPHONE CONTACT
WITH INMATES IN THE COMMUNICATION MANAGEMENT UNIT,
USP MARION, ILLINOIS**

_____, _____, an inmate housed in the CMU
(Inmate Name) (Reg. No.)

at the United States Penitentiary, Marion, Illinois, requests your name be placed on his approved telephone list.

As a condition of being placed on this inmate's approved telephone list, you agree to the following conditions:

- (1) All telephone communication between you and the inmate will be subject to monitoring and recording by Bureau of Prisons' staff;
- (2) Your telephone conversation with the inmate will occur in English-only, unless previously scheduled for, and conducted through, simultaneous translation monitoring; and
- (3) Monitored calls where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved telephone list.

Signature

Date Signed

Printed Name

Phone Number

Attachment C

**ACKNOWLEDGMENT OF CONDITIONS FOR VISITING
WITH INMATES IN THE COMMUNICATION MANAGEMENT UNIT,
USP MARION, ILLINOIS**

_____, _____, an inmate housed in the CMU
(Inmate Name) (Reg. No.)

at the United States Penitentiary, Marion, Illinois, requests your name be placed on his approved visiting list.

As a condition of being placed on this inmate's approved visiting list, you agree to the following conditions:

- (1) All communication between you and the inmate will be subject to monitoring and recording by Bureau of Prisons' staff;
- (2) Your conversations with the inmate during the visit will occur in English-only, unless previously scheduled for, and conducted through, simultaneous translation monitoring; and
- (3) Monitored conversations where either party speaks in non-English will be immediately terminated by the staff monitor unless previously scheduled and conducted through simultaneous translation monitoring. In such cases, inmates may be subject to disciplinary action, and you may be removed from the inmate's approved visiting list.

Signature

Date Signed

Printed Name