

Communications Management Units

NEW DOCUMENTS DETAIL DUE PROCESS VIOLATIONS

In April 2014, hundreds of documents detailing the process for designating and keeping prisoners in Federal Bureau of Prisons Communications Management Units (CMUs) were made public for the first time, through a lawsuit brought by the Center for Constitutional Rights (CCR). The documents reveal that the prisoners have been denied due process at every step.

WHAT IS A CMU?

CMUs are highly restrictive federal prison units that segregate certain prisoners from the general prison population and the outside world, closely monitoring and controlling these prisoners' communications. Prisoners in CMUs are banned from any physical contact with friends and family, and their access to phone calls and work and educational opportunities are extremely limited.

For example, CMU prisoners receive only 8 hours of non-contact visiting time and two 15-minute calls – all of which must occur in English – per week. A proposed rule could limit letters to 3 double-sided pages per week. By contrast, prisoners in general population typically receive four times as much contact visiting time per week, 300 phone minutes per month, and unlimited written correspondence. Additionally, CMU units are audio-surveilled.

Being sent to a CMU is uniquely stigmatizing because it is described publicly as a terrorist unit. Even when prisoners are transferred from a CMU back to the general prison population, they are subject to more restrictions than other prisoners—for example, one former prisoner and CCR client was told he cannot lead a prayer or answer questions about Islam.

The Bureau of Prisons (BOP) opened CMUs quietly, violating federal law, in Indiana and Illinois in 2006 and 2008, respectively. Prisoners were transferred to the facilities without meaningful explanation and held for years without accurate information about how they could get back to general population. CCR filed a lawsuit in 2010 to challenge this denial of due process. Details revealed by the newly-released documents include:

INCOMPLETE, INADEQUATE, AND UNCONSTITUTIONAL POLICIES

- The BOP did not draft criteria for CMU designation until 2009. Until then, the BOP used internal, often unwritten, criteria, which constantly changed to encompass, *after-the-fact*, the prisoners who ended up at the CMU.
- To this day, there is no BOP policy document about CMU designation; the 2009 policy document only addresses reviewing prisoners already held in CMUs for possible transfer to a non-CMU facility.
- The BOP did not review prisoners for transfer out of the CMU for the first three years of the facilities' existence. Reviews began only when CCR's lawsuit was impending.
- When the review policy was described in CMU facility documents, the policy was misstated. The mistakes were not corrected until five years later.
- The 2009 policy advises BOP officials to "consider whether the original reasons for CMU placement still exist" when determining whether CMU imprisonment remains necessary. However, the policy then states that these reasons include the nature of the prisoner's criminal conviction—which will never change.
- Different offices within the BOP have different, often contradictory, understandings of the CMU designation criteria.
- Only some prisoners who meet the official CMU designation criteria are actually transferred to a CMU. The BOP has no written policy to determine who, of those who meet the criteria, should be transferred to a CMU.

MISSING PAPER TRAIL

- There is no requirement that the Regional Director, who determines which prisoners shall be sent to CMUs, document his reason(s) for doing so.
- Officials who recommend (though do not determine) that certain prisoners be sent to a CMU *do* document their reasons. However, they often do not include *all* of the reasons for their recommendation. One official testified that he omits some of his reasons because there is not enough space on the form.

POLITICAL AND RELIGIOUS DISCRIMINATION

- Certain prisoners have been transferred to a CMU because of their political and/or religious beliefs, speech, and writing. One CMU administrator testified that a prisoner could mitigate the reasons for his CMU placement by *no longer believing in a certain ideology*.
- Notably, 60 percent of CMU prisoners are Muslim, though Muslims comprise only six percent of the federal prisoner population.

KAFKAESQUE IMPRISONMENT

- Prisoners are not told why they have been transferred to a CMU until after they arrive. Even then, the reasons they are provided are frequently vague, incomplete, inaccurate, and/or completely false.
- Without complete information about the reasons for their CMU designation, prisoners are unable to rebut those reasons.
- When prisoners have requested further details about the explanation provided for their designation (such as specific facts they could admit or deny), their questions were completely ignored and/or they have received a duplicate of the initial explanation.
- When prisoners have pointed out that the facts purportedly underlying their CMU designation are false, including by referring the BOP to documentation, the

BOP has completely ignored this and continued to assert those facts as true.

- Prisoners are given false, and even impossible, instructions for earning their way out of a CMU. Some prisoners have been baldly lied to and told that they could earn their way out of the CMU by completing 18 months of clear conduct, but after meeting that goal their requests for transfer were repeatedly denied without explanation. BOP policy states that prisoners can appeal their CMU placement through the prison Administrative Remedy Process. However, many of the officials who review Administrative Remedies do not have the authority to transfer prisoners out of the CMU.
- Even on those occasions when a prisoner is transferred from a CMU back to the general prisoner population, he is not told why he was in the CMU or why he was transferred out, so he does not know what behavior to avoid so as not to be sent back.

Due process requires notice, a hearing, and periodic review. But, from the creation of the CMUs to the designation and review process, CMU prisoners have been denied due process at every step. Designation to a CMU involves serious deprivations and restrictions, and these units must be brought into line with constitutional requirements.

Learn more about our case:

www.ccrjustice.org/cmu

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