

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

October 7, 2011

Federal Bureau of Prisons  
c/o Acting Director Thomas R. Kane  
320 First St., NW  
Washington, DC 20534

Dear Mr. Kane:

We are writing because we continue to have questions and concerns about the policies and practices at the Communications Management Units (CMUs), and the circumstances under which they were established. CMUs remove inmates from the general population without meaningful notice or explanation, impose severely restrictive limitations on inmate communication and contact (such as a permanent ban on contact visits), and preclude them from benefitting from the rehabilitative programming that is available to the general population.

As you are aware, the CMUs were established in 2006 and 2008 without public knowledge and hence without the opportunity for public comment, as required by law. Three years after their establishment, the Bureau of Prisons (BOP or "Bureau") finally disclosed CMU policy for public comment. It is our understanding that the Bureau and the Department of Justice will be finalizing the proposed rule this fall. In light of this review process, we write to express our concern regarding the following issues and make the following inquiries:

Extraordinary Communications Restrictions

CMU prisoners receive a meager number of phone calls and visits,<sup>i</sup> and are subjected to a blanket ban on physical contact with loved ones – including their children – during those visits.<sup>ii</sup> Despite the Bureau's policy recognizing the critical importance of calls and visitation to rehabilitation and re-entry, the ban on physical contact remains in place at the CMUs. Such restrictions can tear families apart and inflict incredible suffering on prisoners and their families alike. Given what the research tells us about the importance of family and community to successful re-entry and rehabilitation, the isolation experienced by prisoners in situations such as the CMUs, and the ways in which they are prevented from maintaining their family ties, is counterproductive. If CMU prisoner inmate communication is being closely monitored, why are CMU prisoners not allowed to receive contact visits? This restriction concerns us because we fail to see the nexus

between contact visits and the stated goal of the CMUs. Please explain how such restrictions further the goal of the CMUs.

In addition, what are the criteria for determining the number of visits and telephone calls that a CMU inmate can receive and are there individualized distinctions? The proposed rule sets forth a floor but not a ceiling. We are interested in knowing what, if not improper communications, informs these decisions.

### Due Process Concerns

It has been brought to our attention that none of the CMU prisoners have received any meaningful explanation of why they were designated to the CMUs. It is our understanding that while inmates are informed generally about the transfer, there is no specificity as to why they are being moved or what information was used to make the determination to place them in a CMU. Similarly, they are not informed of the evidence that was used to make the decision to place them there. We understand that there is no opportunity to have a hearing to challenge their CMU designation. Likewise, there is no review process through which they might earn their way out of the CMU. This lack of transparency raises questions about the due process rights of the prisoners so designated. We feel that the designation of prisoners into CMUs should entail adequate protections and processes for review and appeal. Please advise us as to what protections the BOP plans to incorporate into the CMU designation process. We believe the Bureau should require proper process, including notice and an opportunity to be heard, supporting documentation setting forth the evidence with specificity, and a review process. We note that these types of procedures are already in place for other transfers that similarly affect prisoners' conditions of confinement and inquire why they cannot be set in place for CMU transfers as well.

### Disproportionate Number of Muslims in CMUs

We have been informed that somewhere between 65 and 72% of prisoners at the CMUs are Muslim, an alarming overrepresentation of Muslim prisoners in CMUs, since Muslims comprise only 6% of the total federal prison population. Given the lack of transparency discussed above, this over-representation of Muslim inmates is even more troubling. What accounts for the large percentage of Muslims in the CMUs? It is our understanding that numerous prisoners in the CMUs who are Muslim have been so designated with only minor disciplinary infractions, and no communications-related infractions. Please explain why that is the case.

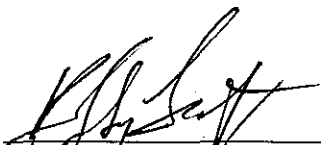
Moreover, why did the BOP determine that it is not necessary for inmates to have communications-related infractions before being placed in a CMU, given the focus on the monitoring of inmate communication?

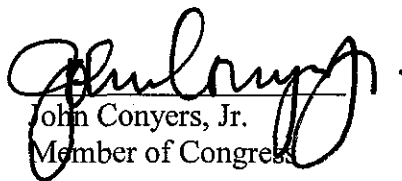
Acting Director Thomas R. Kane

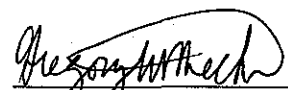
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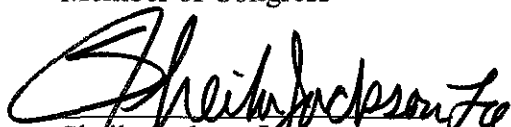
Your timely response in this matter is greatly appreciated.

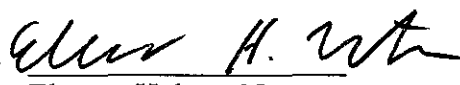
Sincerely,

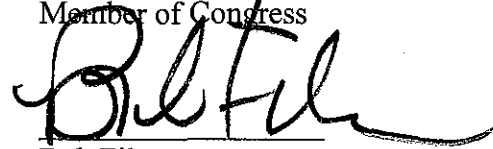
  
Robert C. "Bobby" Scott  
Member of Congress

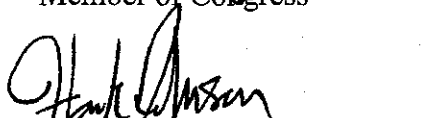
  
John Conyers, Jr.  
Member of Congress

  
Gregory W. Meeks  
Member of Congress

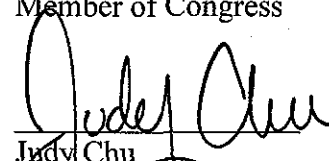
  
Sheila Jackson Lee  
Member of Congress

  
Eleanor Holmes Norton  
Member of Congress


  
Bob Filner  
Member of Congress

  
Henry C. "Hank" Johnson, Jr.  
Member of Congress

  
Keith Ellison  
Member of Congress

  
Judy Chu  
Member of Congress

  
Dennis J. Kucinich  
Member of Congress

  
Michael M. Honda  
Member of Congress

Cc: Eric Holder, United States Attorney General

<sup>i</sup> Despite the recognized importance of phone access to maintaining family relations during incarceration, the Bureau has placed severe restrictions on phone access. The Bureau allows for two 15-minute phone calls per week, however, other BOP prisoners receive 300 minutes a month for phone calls.

<sup>ii</sup> The CMUs' visitation policy is even more restrictive than that of ADX Florence, the Bureau's "supermax" prison, where prisoners have over four times more time allotted for visits than prisoners in the CMU.

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Hansen Clarke

Hansen Clarke  
Member of Congress