

HUFFPOST POLITICS

Tales from Inside the U.S. Gitmo

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Daniel McGowan is an environmental and social justice activist from NYC charged in federal court on counts of arson and conspiracy and given the "terrorism enhancement" for his involvement in two environmentally motivated actions in Oregon in 2001. He is currently serving a 7 year sentence in the Communication Management Unit at USP Marion in Illinois with very limited access to seeing and talking to friends and family. The Department of Justice and FBI have labeled Daniel and his co-defendants among the "number 1 domestic terrorism threat."

As of May 2009, I have been at USP Marion's "Communication Management Unit," or CMU, for roughly nine months and now is a good time to address the misconceptions (and the silence) regarding this unit. I want to offer a snapshot of my day-to-day life here as well as some analysis of what the existence of CMUs in the federal prison system implies. It is my hope that this article will partially fill the void of information that exists concerning the CMU, will help dispel rumors, and will inspire you to support those of us on the inside fighting the existence of these isolation units -- in the courts and in the realm of public opinion. It is best to start from the beginning -- or at least where my story and the CMU meet.

My transfer here is no different from that of many of the men here who were living at Federal Correctional Institutions (normal prisons) prior to the genesis of the CMUs. On May 12, 2008, on my way back from a decent lunch, I was told to report to "R&D" (receiving and discharge). I was given two boxes and half an hour to pack up my meager possessions. After complying I was placed in the SHU (secure housing unit or "hole") and put on a bus the next day. There was no hearing and no information given to me or my attorneys -- only after a day was I told I was on my way to Marion, Illinois' CMU.

Hearing the term "CMU" made my knees buckle as it drummed up some memory I had of the infamous "control units" at Marion (closed in 1995 and replaced by Florence ADX: the lone Federal "Supermax" prison). Then it hit me. The lawyers, in challenging the application of the terrorist enhancement in my case, made the prescient argument that if I receive the enhancement, the Bureau of Prisons (BoP) would use that to place me in the CMU at FCI Terre Haute, Indiana (at the time just 5 months old). In fact, on the way to FCI Sandstone in August 2007, I not only saw the CMU but met one of its residents while in transit. Let me back up and offer a brief history of the Communication Management Units.

The CMU I reside in, at USP Marion, received its first prisoner in May 2008 and when I arrived, held about 17 men, the majority of whom were Muslim. Currently, the unit has 25, with a capacity of 52 cells. In April 2009, we received seven new people, all of whom were from the CMU at FCI Terre Haute. The unit is overwhelmingly Muslim with 18 men identifying as such. Most, but not all of the prison, have so-called terrorism cases. According to a BoP spokesperson, the unit "will not be limited to inmates convicted of terrorism-related cases through all of the prisoners fit that description." Others have prison disciplinary violation or allegations related to communication and the misuse of telephones etc. Here, almost everyone has a terrorism related case -- whether it is like my case (destruction of property characterized as "domestic terrorism") or conspiracy and "providing material aid" cases.

Before the Marion CMU opened, there was the original CMU, opened in December 2006 at the former death row at FCI Terre Haute. According to early articles, the unit was intended for "second tier terrorism inmates, most of them Arab Muslims and a less restrictive version of the Supermax in Florence, Colorado." Additionally, BoP Director Harley Lappin, in a July 2008 hearing on the 2009 BoP budget request, said of the CMUs, "A lot of the more serious offenders, terrorists, were housed at ADX Florence. So, we are ramping up two communications management units that are less restrictive but will ensure that all mail and phone calls of the offenders are monitored on a daily basis."

Terre Haute's CMU has 36 men (27 of whom are Muslim) and is roughly comparable to Marion's CMU. The rest of this place focuses on the latter, in which I have resided and of which I have seen firsthand. You may be curious about just what a CMU actually is. From my correspondence, I can tell that many correspondents do not know much about what goes on here. I hope this can clear up any misperceptions. According to the BoP,

The CMU is [sic] 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 operations of Bureau facilities and protect the public...The CMU is a self-contained general population housing unit.

There are, of course, alternate views to the above definition including the belief that the CMUs are Muslim units, a political prisoner unit (similar to the HSU operated by the BoP in the 80's, and a punishment unit. The CMUs have an extremely high Muslim population; here at Marion, it is 65-75%. An overrepresentation of any one demographic in a prison raises constitutional issues of equal protection as well as safety issues. Nowhere in the BoP will you find any group represented in such extreme disproportion. To counter these claims, the BoP brought in a small number of non-Muslims to be used as proof that the units are not strictly Muslim (an interesting note is that some of the Muslim men here have cases unrelated to terrorism). Does the inclusion of six people that are non-Muslim really negate the claim of segregation though? What are the criteria for determining who comes to the CMU? The BoP claims there are 211 international terrorists (and 1000 domestic terrorists) in their system. Yet, the CMUs have no more than 60 men at the present time. Where are the rest of these people? How does the BOP determine who of those 1200 are sent to a CMU and who to normal prisons? These are questions that need to be asked -- in court and in the media.

Many of the men here (both Muslim and non) are considered political prisoners in their respective movements and have been engaged in social justice, religious organizations, charities and humanitarian efforts. Another conception of the CMU is that it is a location designed to isolate us from our movements and to act as a deterrent for others from those movements (as in "step outside the line and you too will end up there"). The intended effect of long-term housing of this kind is a profound sense of dislocation and alienation. With your mail, email, phones, and visits monitored and no human touch allowed at the visits, it is difficult to feel a connection to "the streets." There is historical evidence of the BoP utilizing political prisons -- despite the fact that the Department of Justice refuses to acknowledge the concept of political prisoners in US prisons, choosing to call us "criminal" instead.

The Lexington High Security Unit (HSU) was one such example. Having opened its 16-bed facilities in 1988 and housing a number of female political prisoners, the HSU functioned as an isolation unit -- underground, bathed in fluorescence, and limited interaction with staff. In the opinion of Dr. Richard Korn, speaking on behalf of the American Civil Liberties Union, the unit's goal was "...to reduce prisoners to a state of submission essential for their ideological conversion. That failing, the next objective is to reduce them as efficient, self-directing antagonists. That failing, the only alternative is to destroy them by making them destroy themselves."

After an arduous campaign by human rights advocates and supporters, the BoP capitulated, stating it would close its facility (when it did not, it was sued). The judge ruled that the plaintiffs were illegally designated based on their past political affiliations, statements and political beliefs. The unit was closed and the women were transferred to other prisons.

The correlations between the HSU and CMU are many and seem to have some of the same goals as well as methods used to designate us here. Knowing they are dealing with people committed to ideals and the movements they are a part of, we were placed here in order to weaken those connections and harm our relationships. An example is the horrendous strain that the CMU puts on our familial relations -- especially our marriages. It was certainly considered by the architects of the CMU that preventing visits that allow

human touch for long-term prisoners would have a disastrous impact on our relationships and would lead to weaker inmates.

Finally, the CMU can be viewed as "the stick" -- a punitive unit for those who don't play ball or who continue to express political beliefs anathema to the BoP or the US government. Although I am not aware of the BoP's criteria for sending people here (due to their refusal to release specific CMU information), it is curious who is and who is not here. Out of roughly 18 codefendants in my criminal case, I am the only one at a CMU (the remainder of them are at low and medium security prisons). The same goes for a member of the SHAC7 campaign, Andrew Stepanian, one of 6 defendants in his case who was sent here for the last 6 months of his sentence. Other men here have codefendants at the Terre Haute CMU while others have codefendants at normal federal prisons. Despite numerous Freedom of Information Requests, the BoP refuses to grant the documents that specify the rules governing transfer to the CMU. Remember, hardly any of the men here have received any disciplinary violations and some have been in general population over 15 years! How can someone be okay in general population for that long and then one day be seen as a communication threat?

So, I have hypothesized about the goals of the CMU. Let me discuss the many problems and injustices associated with the existence of the CMUs.

Due process

More appropriately, a lack thereof. A term I never thought much about before my imprisonment, due process is:

...the conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights, including notice and the right to hearing before a tribunal [my emphasis] with the power to decide the case.

I was moved from FCI Sandstone, against my will and at a moment's notice, with no hearing and thus no chance to contest the reason for my transfer. A FOIA request recently received states I was redesignated May 6th, my transfer was signed the next day and I was moved on May 13th with the reason given as "program participation". Since I got here, I have not had a hearing to contest the claims made in the "Notice to Inmate of Transfer to CMU," some of which were woefully inaccurate. Instead, I was told I can utilize the administrative remedy process (which I have done to no avail) and request a transfer after 18 months of "clear conduct".

The irony is that all prisoners who violate prison rules are subject to a series of disciplinary hearings in which they could offer their defense. For legal units such as Florence ADX (Supermax) or the control unit program, there exists a codified set of rules and hearings for transfer to these locations. The BoP has deliberately ignored this process and has instead transferred us to this special, brand-new CMU without due process. My notice of transfer was given to me 12 days after I arrived!

Similar to the callous disregard for due process (and the US Constitution), there is no "step down" process for the CMU. Unlike the ones that exist at Florence ADX, control units or even the gang units, the CMU has no stages, no requisite amount of time we are to spend here before being sent back to a normal prison. Because these preceding programs are specifically for prison misbehavior, there is a logical and orderly way to finish the program and eventually transfer. For us, the BoP has set up a paradox -- if we are here for our offense conduct, which we cannot ever change, how can we reasonably leave the unit? In its "Admissions and Orientation" guide for Marion's CMU, here is what they say:

Every new commitment to the CMU will be evaluated by his unit team regarding his suitability for incarceration in this institution. If, for some reason, the inmate is deemed not acceptable for confinement in this unit, he will be processed as expeditiously as possible...

[I am still roughly 10 months from my 18-month period in which I must wait before requesting a transfer. Considering the fact that all my remedies have been denied, I am not hopeful about this.]

CMU as Secret

In addition to the due process and transfer issues, there is the secretive and illegal manner that the CMU was created (Note: for historical perspectives, it needs to be stated that the CMU was established roughly halfway through the second term of George W. Bush and his Attorney General Alberto Gonzales.) In April 2006, the BoP proposed a "Limited Communication for Terrorist Inmates" policy, which suggested new restrictions for "terrorists" and "terrorism related inmates" such as:

- 1) One 6-page letter per week.
- 2) One 15-minute phone call a month.
- 3) One 1-hour visit a month.

A coalition of civil rights organizations signed a letter of protest criticizing the proposed rules and raising numerous constitutional, practical and ethical objectives. The outcry appears to have caused the BoP to reconsider it and just 6 months later, open the CMU at FCI Terre Haute quietly. Since the BoP never sought public comment on the new CMU, it certainly appears to be a violation of the Administrative Procedural Act (APA), an argument a federal judge in Miami raised in response to a prisoner's legal challenge to transfer to the CMU.

The unit is functionally an open secret. While the BoP circumvented the standard public comment (and feedback process), it has sought to get around this by describing the CMU as a "self-contained general population unit," implying that the unit is legally and penally no different than a normal unit at an FCI. There is no mention of the CMU on the BoP's website (www.bop.gov) or USP Marion's subpage on the same site. You will not find extensive Congressional hearings on the subject -- other than a July 2008 subcommittee hearing in which it appears that the BoP director was not fully forthcoming on the CMU36. Letters here are stamped "USP Marion," not CMU, and the unit is called "I Unit" by staff. (An interesting anecdote: while on transit in Winter 2009, I met men from the FCI here and asked them what they knew about I Unit. Without hesitation, they said, "That's where the terrorists are." They informed me this is what BoP Staff routinely told them.)

Media queries are met with silence or vague information. Requests by the media to interview me by coming to Marion have been denied -- due to it "being detrimental to the safety, security and good order of the institution." There still is no Program Statement on the CMU -- a legal requirement, outlining the specific rules of the CMU and its designation criteria.

Because of this, and the general refusal of the BoP to hand over relevant documents through FOIA, it is impossible to determine the specific reasons why one is sent here -- and thus, how to contest this process. In effect, the CMU was created on the fly, with no eye toward legality; they are free to operate it in whatever manner they choose.

Communication Management (The Promotion of Isolation and Alienation)

The most painful aspect of this unit, to me, is how the CMU restricts my contact with the world beyond these walls. It is difficult for those who have not known prison to understand what a lifeline contact with our family and friends is to us. It is our link to the world -- and our future (for those of us who are fortunate enough to have release dates). Prison authorities and architects are well aware that those with strong family ties and in good communication with their loved ones are well behaved and have significantly lower rates of recidivism. The BoP, in theory, recognizes this by claiming they try to situate us within 500 miles of our homes. Mostly, this is a cruel farce for many prisoners -- I have not been within 1000 miles of my family in 2 years.

The most Orwellian aspects of the CMU are in how they manage our communications:

A) Telephones- at my previous prison, I was able to use the phones for 300 minutes a month -- days, nights, weekends and holidays -- basically at any point I was not in my housing unit (6am-10pm). Here, we receive one 15-minute phone call a week. The call can only take place between 8am and 2:30pm, never on weekends or holidays and must be scheduled one and a half weeks in advance (we can choose a back-up

number to call but if neither picks up, we don't get a call). The call is live-monitored and recorded. Not only do we receive one fifth of the minutes granted to other federal prisoners but the call is also very trying for our families -- all of whom have day jobs and many of whom have children in school. The CMU requires calls be made in English only -- a difficult demand considering over half of the men here speak English as a second language (this restriction is not present at other federal prisons).

B) Visits- At FCI Sandstone, I received up to eight visiting days a month (56 hours) -- contact visits in which I could embrace my wife, play cards with my nieces and share vending machine food with my visitors. These visits were my lifeline. I got about twelve of them in eight months and it aided in my adjustment to prison.

The CMU restricts our visits to one four-hour non-contract visit a month. One short visit through two inches of plate glass with cameras hanging overhead and my visitors stuffed in a four-and-a-half by three-and-a-half-foot stuffy booth -- a tight squeeze for two. The visits can only take place on weekdays from 8am-2pm -- no more Christmas or Thanksgiving visits -- and worse, no physical contact (Consider what it would be like to have no contact with your loved ones. What if you couldn't hug or kiss your lover, partner, wife, husband? What would that do to you?) I find myself riddled with guilt when I ask friends to spend \$500 to fly across the country, drive three hours (and repeat) for a four-hour non-contact visit. I'm lucky though, having people who will do this. Many of the men here can't afford it or don't want to subject their children to this reality.

C) Mail- We can only send out mail once a day and we cannot visit the mail room to send out packages. We are one-hundred-percent reliant on the one staff person who deals with our mail to do so and sending a box home is a laborious procedure. We must leave our envelopes unsealed so that staff can read, copy, scan and send to whatever other agency studies our correspondence. A letter to NYC takes roughly seven to nine days (which should take five). Letters sent abroad, especially those not written in English, could take a month or more -- a common complaint of some of my fellow prisoners.

Staff here has an interesting reading of the rules governing legal mail leading to the charge that they open our legal mail (this is the subject of an administrative remedy I filed with the BoP Central Office in Washington DC). The rule states that the lawyer's name must be clearly identified and that the envelope must say "Special Mail- Open only in the presence of inmates" and yet staff has opened my legal mail that said "Law Offices of Jane Doe" stating that it should have said, "Jane Doe, Attorney at Law"! The staff looks for any reason to disqualify our legal mail as protected and gather intelligence this way. In doing so, they violate the sanctity of the attorney-client confidentiality principle.

Most of my violations have been petty -- a package has more than twenty pieces of paper or a friend kindly enclosed stamps. A few instances though amount to censorship and a limiting of political expression and dialogue. See Appendix B for a detailed discussion of these instances.

D) Media Contact- Although requests have been made to interview people in the CMU, none have been granted to date. This is a violation of the spirit of the BoP's own media policy. There is an imperative on the Bureau's part to control and ultimately suppress information on the CMU from making it to a mass audience.

Daily Life at the CMU

Neither one of the two CMUs were built for long-term habitation. The Marion CMU was the site of the Secure Housing Unit (SHU), the USP that closed here in 2005. Terre Haute's CMU is in "D-wing" -- the site of the former federal death row.

The CMU was seemingly converted to its current use with the addition of televisions, steel tables, and new wiring and yet it is not suitable for long-term use due to its "open cell" design (i.e. with bars). With 25 prisoners, our movements are restricted to two housing ranges (hallways about 100 by 12 feet); a recreation range where we also eat (consisting of seven cells with a computer, typewriter, barber shop, religious library, social library, art room and recreational equipment); and a small rec yard (all concrete, a lap equals one-eighteenth of a mile, four cages with two basketball hoops, one handball court, a weather awning with

tables and some sit-up benches). We are lucky to be visited daily by a resident bird population of doves and blackbirds, and overhead, the occasional hawk or falcon (ironically, as I write this, I overhear warnings from staff that if we continue to feed the birds, we will receive violations). The appearance of the yard with its cages, concrete, and excessive barbed wire has earned it nickname "Little Guantanamo" (of course a punitive unit with seventy-five percent Muslims also contributes to the name as well).

The conditions here are not dire -- in fact, the horror stories I have heard over the last two years have convinced me it is far worse at many prisons and yet, I believe it is important to be descriptive and accurate -- to dispel fears (about violence, for instance) but also to demonstrate just how different life is for us at the CMU.

There are **many things we lack here that other prisons in the federal system have** to offer:

1- **A residential drug/alcohol program**- despite at least one person here having completion of it ordered by the court.

2- **Enough jobs** for the prisoners here- There is not nearly enough jobs for all the men here and most are extremely low paying.

3- **UNICOR**- This is Federal Prison Industries which **has shops at many federal prisons** (including this one outside the CMU). **These jobs pay much more, allow men to pay their court fees, restitution and child support** and, as the BoP brags, teaches people job skills.

4- Adequate educational opportunities- **Until recently, we did not have GED or vocational programs.** Due to inmate pressure and persistence, we now have both of those as well as a few prisoner-taught classes but no college courses at all.

5- Access to staff on a daily basis- At other federal prisons, you are able to approach staff members at lunch every day, including the Warden. **Here, we get (at most) two quick walk-throughs a week, usually taking place early in the morning. You are often left waiting days to resolve a simple question.**

6- **Law library access- We have a very small law library here with only twenty-five percent of the books required by law.** We can only request books twice weekly and those are only delivered if the other nine hundred prisoners at the adjacent Medium are not using them. We lack Federal Court and Supreme Court reports as well as books on Immigration Law (fifty percent or more of the men here face deportation). This lack of access makes for an arduous and ineffective research path.

7- **Computers- We have four computers for our email system** (two for reading, one for printing and one that we were told would be for legal but it still isn't working). Unlike my previous prison, where we had forty computers with a robust computer-class program, or like other prisons that teach a vocational computer course, we have no such thing.

8- Access to general population- Being in an isolation unit makes for a situation in which **we cannot have organized sports leagues and tournaments due to not having enough people at all. This may not seem crucial but sports are a very useful diversion from the stress of prison life and separation.**

After reading the preceding sections, perhaps like me you are wondering what really is the purpose of the CMU. In short, the SMU is Florence ADX-LITE for those men whose security points are low and present no real problems to staff. From my interactions with the men here, I can say with certainty, that people here are remarkably well-behaved and calm -- many without any disciplinary violations. If these men, like myself, don't get in trouble, and have been in the system for some time, why are we here? Consider my case.

My short time in prison prior to coming to the CMU consisted of two months at MDC Brooklyn and eight months at FCI Sandstone. I had never gotten in trouble and spent my days as a clerk in psychology, working toward a Master's degree, reading, writing and exercising. My goal was to get closer to home and my loved ones. In April 2008, I filed a "hardship transfer" request due to my mother's illness and her

inability to travel to Minnesota to visit me. I had my team meeting, and my security points were lowered. Weeks later, I was moved to the CMU.

The irony is that I was moved to the CMU to have my communication managed, but what changed in that one year to justify this move? If I was a danger, then why did the BoP house me in a low-security prison? The same applies to many of the men here-- some have been in general population for twenty years and then suddenly a need to manage their communication is conjured up. During my pre-CMU time, I had used 3500 phone minutes and sent hundreds of letters. If there was a problem with my communication, shouldn't the BoP have raised this with me? My notice stating their rationale for placing me here attributed it to me "being a member and leader in the ELF and ALF" and "communicating in code." But if this is true, then shouldn't I have been sent to the CMU as soon as I self-reported to prison in July 2007?

The CMUs were crafted and opened under the Bush administration as some misguided attempt to be tough on the "war on terror." This unit contains many prisoners from cases prosecuted during the hyper-paranoid and over-the-top period after 9/11 and the passage of the USA Patriot Act.⁴⁴ The number of prosecutions categorized as terrorism-related more than doubled to reach 1,200 in 2002. It seemed that every other week, there was some plot uncovered by overzealous FBI agents -- in Lackawanna, NY, Miami, FL, Portland, OR, and Virginia and elsewhere (never mind the illegal wiretaps and unscrupulous people used in these cases). These cases may not be headlines anymore but these men did not go away -- they were sent to prison and, when it was politically advantageous for Bush, transferred to the CMUs. The non-Muslim populations of these units (although definitely picked judiciously) were sent there to dispel charges that the CMUs were exclusively Muslim units.

The codified rationale for all prisoners being transferred here are "contact with persons in community require heightened control and reviews" and "your transfer to this facility for greater communication management is necessary to the safe, secure, and orderly function of Bureau institutions..." Should an increase in monitoring of communication mean a decrease in privileges? If the goal is to manage our contact with the outside world, shouldn't the BoP hire enough staff so that we can maintain the same rights and privileges as other prisoners (since the party line is that we are not here for punishment)? The reality is the conditions, segregation, lack of due process and such are punishment regardless of whether the BoP admits it or not.

Forward!

Where to from here, then? Does the new President and his Attorney General take issue with segregation? Will Obama view the CMU, as he did with Guantanamo Bay, as a horrible legacy of his predecessor and close it? Many people are hopeful for an outcome like that. On April 7th, 2009, Mr. Obama, while in Turkey, said, "The United States will not make war on Islam," and that he wanted to "extend the hand of friendship to the Muslim world." While that sounds wonderful, what does that look like in concrete terms? Will he actualize that opinion by closing the CMU? Or will he marry the policy of Bush and condone a secret illegal set of political units for Muslims and activists? What of the men here? Will he transfer us back to normal prisons and review the outrageous prosecutions of many of the CMU detainees? If it can be done with (former) Senator Ted Steven's case, it can be done here.

While lawsuits have been filed in both Illinois and Indiana federal courts, what is needed urgently is for these units to be dragged out into the open. I am asking for your help and advocacy in dealing with this injustice and the mindset that allows a CMU to exist. Please pursue the resource section at the end of this article and consider doing something. I apologize for the length of this piece -- it was suggested to me (by people way smarter than myself) that it would be best to start from the beginning and offer as many details as possible. I hope I gave you a clearer idea of what's going on here. Thank you for all your support and love -- your letters are a bright candle in a sea of darkness.