

# **EXHIBIT 99**



U. S. Department of Justice  
Federal Bureau of Prisons

## INSTITUTION SUPPLEMENT

OPI CMU Unit Manager  
NUMBER THX-5321.07  
DATE October 22, 2009

# Operation & Security of the Communication Management Unit (D-Unit, FCI Terre Haute)

Approved:

*Noted J. Marberry*  
 F. J. Marberry  
 Complex Warden, FCC Terre Haute

*Charles C. Lockett*  
 Charles C. Lockett  
 Warden, FCI Terre Haute

### 1. PURPOSE AND SCOPE

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 the CMU. 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. 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#### B. Directives Rescinded

I. S. 5270.07A

3. **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, CMU inmates will receive a copy of this Institution Supplement and an A&O Handbook.

Classification and reviews of CMU 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 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 for an inmate to be transferred out of the CMU. A record of each review conducted shall be kept in the inmate's central file.

Additionally, within five calendar days of arrival, CMU 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."

4. **CONTACT WITH PERSONS IN THE COMMUNITY:** The purpose of the CMU 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 CMU 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.** Mail call is held Monday through Friday between the hours of 12:00 p.m. - 1:00 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 unit management staff. Out going special mail (i.e. attorney, federal courts, probation officers, etc.) may be sealed, and delivered to unit management staff during mail call hours.

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
- (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 CMU, FCI 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 being 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 CMU 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
- (4) occur in English-only (by both the 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.)

Persons for whom an inmate requests placement on the approved visiting list must complete the "Acknowledgment of Conditions for Visiting with Inmates in CMU, 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.

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



**(a) Cell Assignments.** CMU 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 CMU 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 CMU inmates' lack of contact with non-CMU inmates.

**(c) Mental Health Services.** Psychology staff will provide CMU 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 CMU. 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 the institution librarian.

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

Four televisions are 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.** Religious service opportunities will be provided in the 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.** 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.** 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. 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.** CMU 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. CMU inmates are responsible for laundering their own personal clothing. Barber services in CMU 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.

6. **ADMINISTRATIVE REMEDY PROGRAM:** You may appeal your transfer to CMU, 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.
7. **RESPONSIBILITY:** Communication Management Unit (CMU) Unit Manager is responsible for the annual update and review of this Institution Supplement.
8. **EFFECTIVE DATE:** This supplement is effective upon issuance.

**DISTRIBUTION:**

Warden  
Division Heads  
Department Heads  
Law Library  
Computer Services Manager  
President AFGE

# **EXHIBIT 100**



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

**INSTITUTION SUPPLEMENT**

OPI            CMU Unit Manager  
NUMBER    THX-5321.07B

DATE            September 1, 2011

**Operation & Security of the Communication  
Management Unit (D-Unit, FCI Terre Haute)**

Approved:  Charles L. Lockett  
Complex Warden, FCC Terre Haute

  
J. Oliver  
Warden, FCI Terre Haute

**I. PURPOSE AND SCOPE.**

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 the CMU. 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. 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

THX-5321.07A, Dated October 22, 2009

3. **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, CMU inmates will receive a copy of this Institution Supplement and an A&O Handbook.

Classification and reviews of CMU inmates will occur according to national policy. Reviews for an inmate to be considered for transfer out of a CMU will take place during regularly scheduled Unit Team meetings and after the Unit Team has had ample time to monitor the inmate's institutional adjustment, program progress, responsibility, and to verify the inmate is not engaging in activities that warranted the initial CMU placement. 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 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 12 months period prior to their review, regardless of designation, to be recommended for transfer. After conducting the review, the Unit Team may recommend to the Warden for an inmate to be transferred out of the CMU. A record of each review conducted shall be kept in the inmate's central file.

Additionally, within five calendar days of arrival, CMU 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."

4. **CONTACT WITH PERSONS IN THE COMMUNITY:** The purpose of the CMU is to provide increased monitoring of communication of the inmates assigned to the unit. 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 CMU 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.** Mail call is held Monday through Friday between the hours of 12:00 p.m.-1:00 p.m. Mail will only be given to the addressee.



All written correspondence, including hand written notes and Inmate Request to Staff, 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 unit management staff. Outgoing special mail (i.e. attorney, federal courts, probation officers, etc.) should be sealed, and handed to unit management staff during mail call.

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) live-monitored by staff;
- (3) subject to recording by staff; and
- (4) occur in English-only (by both the inmate and community) unless previously scheduled for and conducted through simultaneous translation monitoring.
- (5) limited to two, fifteen (15) minute telephone calls per week;
- (6) scheduled Monday through Friday, excluding federal holidays, between the hours of 8:00 a.m. and 8:00 p.m., local time;
- (7) scheduled Sunday and federal holidays, between the hours of 8:00 a.m. and 2:30 p.m., local time.

Persons from whom an inmate requests placement on the approved telephone list must complete the "**Acknowledgment of Conditions for Telephone Contact with Inmates in CMU, FCI 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 being 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 CMU 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) live-monitored by staff;
- (3) 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;
- (5) nonverbal communication (i.e. hand signals, sign language) may result in termination of the visit;
- (6) each inmate is authorized eight (8) hours of visiting each month, scheduled in increments not exceeding four (4) hours;
- (7) scheduled Sunday through Friday, excluding federal holidays between the hours of 8:30 a.m. and 2:30 p.m., local time.

Persons for whom an inmate requests placement on the approved visiting list must complete the "**Acknowledgment of Conditions for Visiting with Inmates in CMU, FCI Terre Haute,**" form included with this Institution Supplement as Attachment "C," as proof of acknowledgment and acceptance of the visiting 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.

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

**(a) Cell Assignments.** CMU inmates will ordinarily be housed in cells with double bunk capability. 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 numbered 8-13 are designated as segregation housing for CMU 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 CMU inmates' lack of contact with non-CMU inmates.

**(c) Mental Health Services.** Psychology staff will provide CMU 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 CMU. Inmates will be permitted to leave their cells and recreate 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 the institution librarian.

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

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

The inside recreation rooms will contain various aerobic exercise equipment.

**(f) Religious Services.** Religious service opportunities will be provided in the 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.** Inmate personal property must be stored inside their assigned locker. 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.** 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 close-of-business on 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. 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.** CMU inmates are responsible for sanitation of their living areas. Unit orderly job assignments will be made by members of the unit team. 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. CMU inmates are responsible for laundering their own personal clothing. Barber services in CMU will be conducted within the unit. Inmates should submit an Inmate Request to Staff Member form 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 members of the unit team.

6. **ADMINISTRATIVE REMEDY PROGRAM:** Inmates may appeal their transfer to the CMU, or any conditions of confinement, through the Bureau's Administrative Remedy Program, 28 C.F.R. §§ 542.10 through 542.19, and corresponding policy.

A member of the Unit Team will provide the inmate with the necessary form(s) upon request.

7. **RESPONSIBILITY:** The CMU Unit Manager is responsible for the annual update and review of this Institution Supplement.
8. **EFFECTIVE DATE:** This supplement is effective upon issuance.

**DISTRIBUTION:**

Warden  
Division Heads  
Department Heads  
Law Library  
Computer Services Manager  
President AFGE

THX-5270.07B  
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:

**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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THX-5270.07B  
Attachment B

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

\_\_\_\_\_, \_\_\_\_\_, an inmate housed in D-Unit at the Federal  
(Inmate Name) (Reg. No.)

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

THX-5270.07B  
Attachment C

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

\_\_\_\_\_, \_\_\_\_\_, an inmate housed in D-Unit at the Federal  
(Inmate Name) (Reg. No.)

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 101**




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

**INSTITUTION SUPPLEMENT**

OPI           CMU Unit Manager  
NUMBER    THX-5321.07C  
DATE        March 31, 2014

**OPERATION & SECURITY OF THE COMMUNICATION MANAGEMENT UNIT (CMU)**

Approved:   
J. F. Caraway  
Complex Warden

  
L. LaRiva  
Warden

- I. **PURPOSE AND SCOPE:** 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 the CMU. 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. All National policies applicable to general population inmates apply with conditions specified within the supplement.

II. **DIRECTIVES AFFECTED**

- A. **Directives Referenced**

Program Statement 1330.18, Administrative Remedy Program, dated 1/16/2014

Program Statement 5265.14, Correspondence, dated 4/2011

Program Statement 5264.08, Inmate Telephone Regulations, dated 1/24/2008

B. Directives Rescinded

Institution Supplement THX-5321.07B, Operations & Security of the Communications Management Unit, dated 5/31/2012, is hereby superseded.

- III. **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, CMU inmates will receive a copy of this Institution Supplement and an A&O Handbook.

Classification and review of CMU inmates will occur according to National policy. Reviews for an inmate to be considered for transfer out of a CMU will take place during regularly scheduled Unit Team meetings and after the Unit Team has had ample time to monitor the inmate's institutional adjustment, program progress, responsibility, and to verify the inmate is not engaging in activities that warranted the initial CMU placement. Subsequent reviews will be conducted at six (6) month intervals. A review for transfer from a CMU will be conducted in a manner consistent with sound correctional 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. After conducting the review, the Unit Team may recommend to the Warden for an inmate to be transferred out of the CMU. A record of each review conducted shall be kept in the inmate's central file.

Additionally, within five (5) calendar days of arrival, CMU inmates will be provided a "NOTICE TO INMATE OF TRANSFER TO COMMUNICATION MANAGEMENT UNIT" form indicating the reasons for their placement in the unit.

- IV. **CONTACT WITH PERSONS IN THE COMMUNITY:** The purpose of the CMU is to provide increased monitoring of communication of inmates assigned to the unit. By operating as a self-contained housing unit, staff may adequately regulate and monitor all communications between inmates and persons in the community. All contact between CMU inmates and persons in the community may occur according to National policy, with necessary adjustments indicated herein. Privileged attorney-client communication will be managed as dictated by National policy.



- A. **Written General Correspondence:** Mail call will ordinarily be held Monday through Friday between the hours of 12:00 p.m.-1:00 p.m. Mail will only be given to the addressee.

All written correspondence, including hand written notes and Inmate Requests to Staff, leaving the unit must be hand-delivered to unit management staff.

Mail leaving the institution must contain a return address which includes the inmate's name and register number. Legal and special mail will ordinarily be delivered by unit management staff. Outgoing special mail (i.e. attorney, federal courts, probation officers, etc.) should be sealed, and handed to unit management staff during mail call.

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. Live-monitored by staff.
3. Subject to recording by staff.
4. Staff must be notified, when scheduling a call which will be conducted in a language(s), other than English.
5. Limited to two (2), fifteen (15) minute telephone calls per week scheduled in advance with the person and telephone number appearing on the schedule. Only one number may be dialed, calls may last up to fifteen (15) minutes and scheduling will be made at thirty (30) minute intervals. Any variations must be approved by staff prior to the telephone call.
6. Scheduled Monday through Friday, excluding Federal Holidays, between the hours of 8:00 a.m. and 8:00 p.m., local time.
7. Scheduled Sunday and Federal Holidays, between the hours of 8:00 a.m. and 2:30 p.m., local time.

In the event of a staff terminated call, 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 CMU inmates be limited to less than one (1) telephone call per month (28 C.F.R. § 540.100(b) of at least three (3) 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. Live-monitored by staff.
  3. Subject to recording by staff.
  4. Staff must be notified, when a visit will be conducted in a language other than English.
  5. Nonverbal communication (i.e. hand signals, sign language) may result in termination of the visit.
  6. Each inmate is authorized eight (8) hours of visiting each month, scheduled in increments not exceeding four (4) hours.
  7. Scheduled Sunday through Friday, including Federal Holidays between the hours of 8:30 a.m. and 2:30 p.m., local time.

Persons for whom an inmate requests placement on the approved visiting list must complete the "Acknowledgment of Conditions for Visiting with Inmates in CMU, FCI Terre Haute," form included with this Institution Supplement as Attachment A, as proof of acknowledgment and acceptance of the visiting conditions.

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

- A. **Cell Assignments:** CMU inmates will ordinarily be housed in cells with double bunk capability. 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 numbered 8-13 are designated as segregation housing for CMU 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 CMU inmates' will not have contact with non-CMU inmates.
- C. **Mental Health Services:** Psychology staff will provide CMU inmates an initial psychological assessment within fourteen (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 in a private area.
- 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 CMU. Inmates will be permitted to leave their cells and

recreate in the unit daily from 6:00 a.m. to 9:15 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 the institution librarian.

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

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

The inside recreation rooms will contain various aerobic exercise equipment.

- F. **Religious Services:** Religious service opportunities will be provided in the unit. All communication with religious services providers from the community will be monitored as indicated in Section IV of this Institution Supplement, depending on the means of communication used. Inmates in the CMU will be allowed to engage in congregate prayer any time they are released from their cells. With the exception of scheduled services, inmates will only be allowed in groups of ten or less and will only utilize multi-purpose room #3 for congregate prayer. Inmates may not preach, teach, deliver a sermon, or lead a class/study group. Inmates are also allowed to pray two to a cell as long as one of the inmates is the occupant of the cell. Regardless of the reason, any time two inmates are in a cell, the door will be in the full open position.
- G. **Personal Property:** Inmate personal property must be stored inside their assigned locker. 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:** 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, and after completion of the forms they will be forwarded to the commissary for processing by close-of-business each Wednesday. Commissary items will be delivered to the unit by commissary staff on Thursday of each week. Any special purchases (personal radios, etc.) must be approved by the Unit Manager. Commissary items will be neatly stored in the 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:** CMU inmates are responsible for sanitation of their living areas. Unit orderly job assignments will be made by members of the unit

team. 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 for inmates in CMU SHU only. CMU inmates are responsible for laundering their own clothing. Barber services in CMU will be conducted within the unit.

- J. **Work Assignments:** Work assignments will include orderlies for unit sanitation, food service, laundry, and recreation, and will be assigned by members of the unit team.

- VI. **ADMINISTRATIVE REMEDY PROGRAM:** Inmates may appeal their transfer to the CMU, or any conditions of confinement, through the Bureau's Administrative Remedy Program, PS 1330.18, 28 C.F.R. § 542.10 through 542.19, and corresponding policy.

A member of the Unit Team will provide the inmate with the necessary form(s) upon request.

- VII. **RESPONSIBILITY:** The CMU Unit Manager is responsible for the annual update and review of this Institution Supplement.

**DISTRIBUTION:**

Wardens  
Department Heads  
Division Heads  
Law Library  
Information Technology Manager  
President AFGE

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

\_\_\_\_\_, \_\_\_\_\_, an inmate housed in D-Unit at the Federal  
(Inmate Name) (Reg. No.)

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 102**





1 Cumberland?

2 A. Yes.

3 Q. And when was that?

4 A. Went in 2005, and I was there until April of  
5 2008 when I went to Marion.

6 Q. And when did you leave Marion?

7 A. In February of 2011.

8 Q. And I missed the last step.

9 A. USP Leavenworth, Kansas.

10 Q. Okay. And that was until?

11 A. I retired in February of 2012.

12 Q. And is Nashville where you're from or where  
13 you live now?

14 A. I do live here now, yes.

15 Q. It seems like a lot of moving.

16 A. It is.

17 Q. Wow. Okay. I'd like to talk a bit about your  
18 responsibilities, you know, job responsibilities in  
19 your role as a warden.

20 Did your responsibilities differ between the  
21 four institutions where you were a warden, or can we  
22 talk about them all collectively?

23 A. I think collectively, the general principle.

24 There may have been some differences based upon --

25 like, Sandstone's a low-security facility and has a

1 there's more latitude because I had direct knowledge  
2 and responsibility for that type of issue.

3 Q. Would you say, then, that you had the ultimate  
4 authority over whether to reject correspondence?

5 A. I believe I did, yes.

6 Q. Do you recognize the name Kifah Jayyousi?

7 A. I recognize the name, yes.

8 Q. And that's spelled K-I-F-A-H J-A-Y-Y-O-U-S-I.  
9 Who is he?

10 A. He also was an inmate in the communication  
11 management unit.

12 Q. Was he at the communication management unit in  
13 Marion when you were there?

14 A. Yes.

15 Q. What do you remember about him?

16 A. I remember very little about him. I'm not  
17 picturing him. I remember the name. And when I  
18 reviewed documents, I did recall that he had come from  
19 the CMU at Terre Haute to us, and I remembered some of  
20 the circumstances related to him coming to us, at that  
21 point, in responding to correspondence, but I don't  
22 recall very much about his case.

23 Q. What were those circumstances?

24 A. Only that I knew that he came to the CMU and  
25 that it was not as a result of a behavioral issue on

1 his part and that -- I believe that he had had some  
2 medical concerns and, I think, had had surgeries, and  
3 it was a concern for the follow-up on medical; and  
4 also that for the length of time that he had been at  
5 Terre Haute, did that go towards the time in the CMU  
6 for consideration for transfer from the CMU.

7 Q. You mentioned medical treatment. Was that the  
8 reason he was transferred from Terre Haute to Marion?

9 A. I don't recall the reason he was transferred.

10 Q. But you recall that it was not a behavioral  
11 issue?

12 A. Correct.

13 Q. Would you know if it was a behavioral issue?

14 A. Generally speaking, yes.

15 Q. Did Mr. Jayyousi ever speak with you when you  
16 were making rounds in the CMU?

17 A. I am certain that I had some interaction  
18 with him, but I do not recall anything in the content.  
19 As I said, I have difficulty picturing him or  
20 interactions, so I think it had to have been very  
21 routine, ordinary, because the people who stand out  
22 are very positive or very negative, so -- and that's  
23 the best I recall of him.

24 Q. You did say before that you -- that you  
25 recalled quite a bit about Mr. McGowan. Would you

1 explains the reason for transfer?

2 A. That information would come from the CTU.

3 Q. Did you ever go back to the CTU and ask for  
4 clarification on any of these reasons for transfer?

5 A. No.

6 Q. So just to make sure I understand, the process  
7 would be that the unit team would get the information  
8 that you see in the third block there from the CTU,  
9 would plug it into this document, and would give it  
10 to you for your signature?

11 A. (Nods head up and down.)

12 Q. And your signature is meant to confirm that  
13 the inmate has been told why he has been designated to  
14 the CMU?

15 A. Yes.

16 Q. You can put that aside for now.

17 At the time the CMU opened, was there any  
18 expectation for how long an inmate would remain in  
19 CMU?

20 A. As in other policies and in our -- excuse me,  
21 in security designations or custody classification,  
22 generally 18 months of clear conduct at a facility.

23 Q. So was it your expectation, then, assuming  
24 clear conduct, the inmates originally placed in the  
25 CMU would be transferred to a general population unit

1 within 18 months?

2 A. Not necessarily. That they would get reviewed  
3 for possible transfer at that time.

4 Q. Do you know if that 18-month review period  
5 expectation changed at any point during the operation  
6 of the CMU?

7 A. I don't believe so, no.

8 Q. Are you aware of any differences between the  
9 Terre Haute and Marion CMUs?

10 A. Other than the physical structure of those  
11 that make -- allow for some differences in  
12 programming, I'm not aware of any.

13 Q. Were there no differences in the types of  
14 inmates that were placed in the two units?

15 A. I couldn't speak to Terre Haute's. I didn't  
16 get -- ever review who's at Terre Haute and that type  
17 of thing. I could only speak to Marion.

18 Q. Did you receive any specific training  
19 concerning the CMU?

20 A. No.

21 Q. Were you told to look for or listen for  
22 certain things?

23 A. No. I mean, other than my regular reviews  
24 that I do in managing a facility.

25 Q. So from your perspective, there was nothing



1 it said "Warden's Comments." I would provide my  
2 comments and send it up. I don't recall any time  
3 where I said, no, I'm not comfortable with this,  
4 because they had the day-to-day interaction. And  
5 so I don't recall of any time when I said no.

6 Q. Do you recall any circumstances where you had  
7 any follow-up discussion with the unit team before  
8 signing?

9 A. Only to the extent that I thought that maybe  
10 there wasn't significant enough information in the  
11 referral that needed to be covered that I thought was  
12 pertinent, but not anything to the extent that -- I  
13 can't think of anything, specifics, other than that.

14 Q. So one of the things you would look for when  
15 you reviewed the forms was to make sure that they had  
16 sufficient support for the unit team's recommendation?

17 A. Yes.

18 Q. Was the unit team, either through you or from  
19 outside sources, provided any information on how to  
20 conduct the program reviews for CMU inmates?

21 A. I didn't provide any direction, and I don't  
22 believe -- I'm not aware that there was any training  
23 on how to conduct it. The program review process is  
24 something that we do and case managers and counselors  
25 do and unit managers do, so I don't -- to my

1 knowledge, no.

2 Q. Do you recall any instances of inmates being  
3 transferred out of the CMU before January 1st, 2010?

4 A. The dates, I can tell you I have no idea on a  
5 date time frame. But what I can tell you is there  
6 were some inmates that moved from our program related  
7 to, say, behavioral or problems that they couldn't be  
8 housed with somebody on the unit, so we had to move  
9 them. But it was more a behavioral-generated action.

10 Q. And was that in the early years of the CMU, or  
11 did that continue later on also?

12 A. I apologize. I'm really bad on my time frames  
13 of when things occurred and sequence, but I know that  
14 we had those early on. I can't -- I mean, there's --  
15 but, again, from activities, it's -- those things  
16 happen in a correctional environment, so it's not --  
17 and I can't tell you of instances or time frames or  
18 when more happened, but, again, I think that they  
19 probably didn't change over time.

20 Q. Towards the end of your time at Marion, do you  
21 recall more inmates being transferred out of the CMU  
22 into general population units?

23 A. Only because the time frame for the 18 months  
24 clear conduct would then be into place, that we were  
25 now referring inmates for placement to general

1 wasn't pertinent to my part of the review.

2 Q. Let's turn to the document that was previously  
3 marked as Exhibit 40. It's in this one (indicating).

4 A. Thank you.

5 Q. Have you seen this document before?

6 A. Can I review it for a moment, please, first?

7 Q. Of course.

8 A. (Witness reviewing document.)

9 I had seen this document.

10 Q. When did you see this?

11 A. Initially, when it was issued. And I don't --  
12 I think it was -- must have been a cover memo of some  
13 sort to it, but I couldn't tell you when it was  
14 actually issued, but -- and then I also reviewed it  
15 yesterday.

16 Q. Was this notice posted in Marion?

17 A. I cannot tell you with exact certainty it was,  
18 but I'm certain the direction was to post it, so I am  
19 certain we would. And I know that the inmates asked  
20 questions, so I -- I'm making an assumption that it  
21 was posted.

22 Q. Okay. The first sentence of the first  
23 paragraph states: "A review of inmates for continued  
24 CMU designation will be conducted by the unit team in  
25 connection with regularly-scheduled program reviews."

1           Is it your understanding that during program  
2 reviews, the unit team would, following this notice,  
3 make a determination as to whether the inmate should  
4 continue to be placed in the CMU?

5 A.       Yes. After they had been -- met that 18-month  
6 criteria, yes.

7 Q.       Did this notice change the policy with respect  
8 to how program reviews were conducted?

9 A.       It shouldn't have, so -- I say that because  
10 program reviews, like I said, are a part of another  
11 policy that tells us what to do, so nothing should  
12 have changed with that.

13 Q.       Prior to this notice, did the unit team make a  
14 determination as to whether an inmate should stay in  
15 the program during the program review?

16 A.       I'm certain that inmates asked about being  
17 redesignated from the unit, but, again, because of the  
18 time frames in which inmates started arriving at the  
19 facility and when they would have met that criteria,  
20 things couldn't have changed because they wouldn't  
21 have been eligible for quite some time after we  
22 activated.

23 Q.       Do you know who decided to institute this  
24 policy that inmates would be considered for transfer  
25 out of the CMU during program reviews?

1 It would have either been Scott Wilson or Milt Newman,  
2 but I don't know which one was there at that point.

3 Q. Did you discuss how to respond to this request  
4 with the case manager?

5 A. No.

6 Q. Does this response answer Mr. McGowan's  
7 question or address his request to provide him with  
8 the reason why his redesignation request was rejected?

9 A. It answers part of his questions.

10 Q. What parts of his questions does it answer?

11 A. It asks -- the response to him asking for a  
12 hearing, in which we said there's no requirement.  
13 It doesn't say no, you're not going to get, but it  
14 essentially indicates there wouldn't be one provided.  
15 And that's about -- and it responds to the increased  
16 level of communication opportunities, and we say that  
17 that will not be increased.

18 Q. Is it correct to say, though, that it doesn't  
19 respond to his first request, which is the reason his  
20 transfer request was rejected?

21 A. Correct.

22 Q. Was this not answered because the unit staff  
23 didn't have the answer to that question?

24 MR. SWINTON: Objection. Calls for  
25 speculation.

1 THE WITNESS: And it would be entirely  
2 speculation on that. That could be an explanation,  
3 but I don't know that it is in this case.

4 BY MS. CITRON:

5 Q. Was it your policy and practice to draft or  
6 sign off on requests that weren't responsive to the  
7 inmate's administrative remedy requests?

8 A. No, it wasn't my practice. Kind of annoys me  
9 now, but no.

10 Q. Just to make sure I understand. I was asking  
11 if, as a matter of practice, your goal was to actually  
12 respond to the inmate's request.

13 A. Absolutely.

14 Q. Okay. Can you think of any explanation for  
15 why this request -- this response does not respond to  
16 Mr. McGowan's request, other than the one I suggested?

17 MR. SWINTON: Same objection. Calls for  
18 speculation.

19 THE WITNESS: My preference would be that  
20 it would have fully responded, but it doesn't -- it  
21 doesn't provide that, so I -- anything I say would be  
22 a guess.

23 BY MS. CITRON:

24 Q. Okay. Let's turn to the next page. This  
25 looks like an additional level of administrative

1 looking for Mr. Jayyousi's notice of transfer. The  
2 page is not Bates stamped for some reason. Looks like  
3 it's about maybe ten pages in.

4 Okay. Again, this looks like a notice of  
5 transfer that was initiated in Terre Haute, so not  
6 one that you signed off on. Do you recall having seen  
7 Mr. Jayyousi's notice of transfer in the past?

8 A. I don't recall it. And I may have seen it,  
9 but I do not recall it.

10 Q. Looking at this middle section, take a minute  
11 to read the explanation for why Mr. Jayyousi was  
12 designated to the CMU initially.

13 A. (Witness reviewing document.)

14 Okay.

15 Q. Do you agree that this designation was based  
16 entirely on Mr. Jayyousi's offense of conviction,  
17 based on this notice?

18 A. Based on this notice, yes.

19 Q. Are you aware of any other reasons for his  
20 designation to the CMU?

21 A. I am not.

22 Q. All right. We're turning next to the page  
23 marked 4610. It's a February 22nd, 2011, memorandum.  
24 Take a minute and look this one over.

25 A. (Witness reviewing document.)

1 Okay.

2 Q. Did you review and sign off on this  
3 memorandum?

4 A. Yes, I did.

5 Q. The third paragraph -- it's on the second page  
6 -- states that Mr. Jayyousi has maintained clear  
7 conduct and a good rapport with staff and other  
8 inmates. Do you agree with that characterization?

9 A. Yes.

10 Q. And the last sentence there states that USP  
11 Marion staff have noted no continuation of actions  
12 which precipitated his placement in the CMU; is that  
13 correct?

14 A. Yes.

15 Q. Similar to Mr. Aref, is your understanding of  
16 that that Mr. Jayyousi did not continue to engage in  
17 conduct similar to his offense conduct while in the  
18 CMU?

19 A. Correct.

20 Q. Did you observe or hear of any incidents  
21 involving Mr. Jayyousi attempting to recruit or  
22 radicalize any other inmates?

23 A. I don't recall anything at this time.

24 Q. Is that the type of thing that you would have  
25 been made aware of?



1 A. Yes.

2 Q. Looking to the handwritten comment next to  
3 warden's comments, can you read this?

4 A. Yes. "In the time he has been here, he has  
5 acted within the regulations set forth. He's not  
6 presented any issues which would cause wide concern."

7 Q. Did you discuss Mr. Jayyousi's conduct with  
8 the unit team prior to making this comment?

9 A. Yes, I would have. I don't recall it  
10 specifically, but I would have done that.

11 Q. Turning to the page marked 4613. It's the  
12 next page. It's a March 22nd, 2011, memorandum from  
13 Les Smith to Michael Nalley. Just take a minute to  
14 review this.

15 A. (Witness reviewing document.)

16 Okay.

17 Q. Do you recall ever speaking with Mr. Smith or  
18 Mr. Nalley about Mr. Jayyousi's designation -- or  
19 redesignation to the CMU?

20 A. I do not recall a discussion with them.

21 Q. Turning to the second page, the third full  
22 paragraph that begins "While in THA CMU" --

23 A. Uh-huh.

24 Q. -- discusses certain behavior which this  
25 characterizes as aimed at inciting and radicalizing

# **EXHIBIT 103**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

Yassin Muhiddin Aref,

and

Daniel McGowan,

and

Royal Jones,

and

Kifah Jayyousi,

Plaintiffs,

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

CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

Page 2

1 Leslie S. Smith, Chief Counter  
2 Terrorism Unit, Federal Bureau of  
3 Prisoners,  
4 and  
5 Federal Bureau of Prisons,  
6 Defendant.

7 -----

8  
9

10 VIDEOCONFERENCE DEPOSITION OF WENDY ROAL WARNER

11 Taken October 31, 2013

12 Commencing at 8:45 a.m.

13  
14

15 CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

16  
17

18  
19

20  
21

22  
23

Reported by:

24 Kelley E. Zilles, RPR

25 Ref. No.: 10631

1 Q. And when did you become associate warden at  
2 Terre Haute?

3 A. 2006 I believe.

4 Q. And when did you move to Duluth?

5 A. 2011. No, 2009, yes.

6 Q. And when did you become, and when did you become  
7 warden at USP Marion?

8 A. 2011.

9 Q. Do you know which, approximately which month?

10 A. March I was selected as the warden.

11 Q. Were you at Marion prior to being selected as  
12 the warden?

13 A. Yes, I filled in once I believe when Warden  
14 Hollingsworth had to be somewhere else, I believe it was  
15 for a week or close to a week.

16 Q. Do you recall when that was?

17 A. No.

18 Q. Okay.

19 A. It was sometime when I was, I believe it was  
20 sometime when I was in Duluth.

21 Q. Okay. And so you said you started as warden at  
22 Terre Haute in 2006, is that right?

23 A. I believe I said I was associate warden at Terre  
24 Haute.

25 Q. Apologies, you did. And as associate warden at

1 that be from?

2 A. I don't recall who actually signed the memo. I  
3 received it through the computer system from the CTU.

4 Q. And was there any expectation as to how long  
5 individual prisoners would remain in the CMU?

6 A. No. Initially there was a time frame that an  
7 inmate needed to be in the unit 18 months I believe  
8 which is very similar, actually it's national policy  
9 that inmates will remain at an institution I believe  
10 it's 18 months prior to being considered for transfer.  
11 However, either right before my arrival to Marion or  
12 shortly after my arrival we know, we took that out of  
13 the CMU and started reviewing them initially from their  
14 initial team meeting for consideration for transfer out.

15 Q. So either just prior to your arrival or shortly  
16 after your arrival at Marion you said the policy with  
17 respect to the 18-month duration changed, is that right?

18 A. No, the policy did not change, the policy  
19 regarding classification and review of inmates remained  
20 the same, that generally an inmate needed to be at an  
21 institution I believe for 18 months was the wording  
22 prior to being considered for transfer. For the CMU  
23 there was a memo I believe directing us to not apply  
24 that same policy generalization to the CMU inmates and  
25 to begin considering them from the initial team meeting

1 if they were appropriate for transfer out.

2 Q. Do you recall who that memo was from?

3 A. No, I would be guessing. I believe it was from  
4 the central office.

5 Q. Do you know whether that memo has been produced  
6 in this case?

7 A. I believe so, but again, I don't recall the  
8 exact wording of the memo from I believe from Dr. Conley  
9 and from Mr. Dodrill, but I believe it may be in those  
10 memos.

11 Q. Is it one of the documents that you reviewed  
12 with counsel yesterday?

13 A. I believe so.

14 MS. VEBLEN: Nate, has that memo been  
15 produced in this case?

16 MR. SWINTON: Yes, the one we reviewed  
17 yesterday has been produced.

18 MS. VEBLEN: Okay.

19 A. I would have to see the exact wording again, but  
20 yes.

21 Q. Okay. Was there any difference between the  
22 purpose of the CMU at Marion and the CMU at Terre Haute?

23 A. No.

24 Q. Any other difference between them that you can  
25 think of?

1 opportunity to point out any inconsistencies in the  
2 information?

3 A. Inmates have an opportunity at the team meeting  
4 to present any, anything they want, their reasons for a  
5 transfer or things that they know about that they  
6 disagree with. They may even disagree with the PSR, but  
7 we don't have the authority to change the PSR, that's a  
8 court document.

9 Q. Do you recall there ever being internal  
10 disagreement among the unit team with respect to an  
11 inmate's potential designation out of the CMU?

12 A. Yes, I'm sure there was, yes, there were.

13 Q. What would happen in that event?

14 A. Well, the unit team and I would generally meet  
15 and discuss all the inmates who, you know, have been  
16 coming up, or inmates for program review and I would  
17 listen to everybody's opinions and then I would apply my  
18 correctional expertise and sound judgment and make the  
19 final decision on whether or not we would recommend a  
20 transfer out of the unit.

21 Q. Do you recall any situations in which the unit  
22 team was in favor of recommending an inmate for transfer  
23 out of the CMU but you didn't agree with the unit team  
24 on the issue?

25 A. I don't recall a specific case. It's certainly



1 possible.

2 Q. Did you ever interact with CTU or NERO directly?

3 A. Yes.

4 Q. When would that occur?

5 A. Well, in regards to the, you said NERO, you must  
6 mean North Central Regional Office.

7 Q. Yes.

8 A. NERO would be the Northeast Regional Office. I  
9 communicate with the regional office frequently, the  
10 regional director was my supervisor.

11 Q. Do you recall any specific communications  
12 regarding individual CMU inmates and their designation  
13 or potential designation out of a CMU?

14 A. No, I don't believe I would have. There  
15 wouldn't have been for me to discuss with the regional  
16 director, that was the institution's decision whether or  
17 not they were going to make a recommendation.

18 MR. SWINTON: Say, Lara?

19 MS. VELEN: Yes.

20 MR. SWINTON: If you don't mind, I was  
21 wondering, this might be a good time to take a second  
22 break. Would you object to that?

23 MS. VELEN: Let's talk about, sure, let's  
24 also talk about timing.

25 MR. SWINTON: Okay.

1 A. It's possible. I don't recall exactly if there  
2 were discussions. I believe there were.

3 Q. Do you know why the policy changed?

4 A. No, I do not. And it's a, I don't think it's a  
5 policy, this is a supplement. This, this changed I  
6 believe, I believe from guidance from the central  
7 office.

8 Q. So in your view are institution supplements not  
9 a reflection of BOP policy?

10 A. Bureau policy has rules language and a lot of  
11 requirements to it. Supplements supplement the program  
12 statement but explain more specific local details but  
13 does not affect things like rules language and such in a  
14 program statement which we don't have the authority to  
15 change at the local level.

16 Q. Let's take a look at another document, it's in  
17 the packet with the court reporter labeled number 5.  
18 I'd like to mark that as the next Exhibit 127.

19 (Deposition Exhibit Number 127  
20 marked for identification.)

21 Q. If, if you would take a look at the second and  
22 third pages of this document which are the attachment to  
23 the cover email. I'm looking right now at the page  
24 Bates stamped BOP CMU001772.

25 A. Okay.

1 Q. Do you recognize this document?

2 A. No, I don't know that I've, I don't recall  
3 seeing it. It certainly was, the memo anyway was  
4 addressed to me. I don't know about this first page.

5 Q. I'm talking specifically about the memo, the  
6 attachment to the email which is a memo to you dated  
7 July 21, 2011?

8 A. Mm-hmm.

9 Q. Do you recall receiving this document?

10 A. No, I don't recall. It's addressed to me, it's  
11 not signed. I may very well have seen it.

12 Q. The memorandum indicates that it's from Jeffrey  
13 Baney, the executive assistant. Does that indicate that  
14 he wrote it?

15 A. Yes, or that he was the one that was supposed to  
16 sign it.

17 Q. The sixth bullet point down under Marion/Terre  
18 Haute CMU general issues is, "Procedures for inmates  
19 requesting transfer," do you see that?

20 A. Yes.

21 Q. And there are a few questions that follow that,  
22 the first is, "Are all inmates who secure 18 months  
23 clear conduct being processed?" In July of 2011 were  
24 all inmates in the CMU who secured 18 months clear  
25 conduct being processed?

1 A. Are you asking me that question?

2 Q. Yes.

3 A. I don't have that answer.

4 Q. So you, do you recall whether or not that was  
5 the case?

6 A. Well, as I believe I told you, I was named the  
7 warden of Marion in about March, I believe I stated I  
8 didn't physically get there until May or June, so I  
9 would have still been relatively new and so I can't  
10 speak for every case that was reviewed prior to my  
11 arrival there, nor even necessarily since my arrival  
12 there. I believe I did state that the 18 months, I  
13 don't believe I clarified clear conduct, but that is in,  
14 was in policy anyway, I don't know if the policy is  
15 changed since I retired, that inmates ordinarily were  
16 not considered for transfer once they arrived at an  
17 institution, any institution, with I guess some  
18 exceptions, like a medical center, unless they had  
19 18 months of clear conduct. And I believe I stated that  
20 shortly before my arrival or shortly after my arrival  
21 that was changed for CMU's and we began considering them  
22 for transfer out at their initial team meeting and  
23 subsequent team meetings.

24 Q. And, and that change was related to the document  
25 we just looked at a moment ago, is that right?

1 A. I believe so.

2 Q. Okay. Do you have any reason to believe that at  
3 the time of this memo and this question that such  
4 inmates; i.e., inmates with 18 months clear conduct,  
5 that they were not being processed?

6 MR. SWINTON: I'm just going to object in  
7 that the question calls for speculation.

8 MS. VEBLEN: I just asked if she has any  
9 reason to believe that.

10 MR. SWINTON: Same objection.

11 BY MS. VEBLEN:

12 Q. I guess I'm wondering, there's this memo that's  
13 addressed to you in the middle of 2011 and it's raising  
14 this question, and you were a new warden at Marion and  
15 perhaps you recall whether that this was a topic of  
16 conversation in connection with these general issues or  
17 otherwise, and maybe you recall there was an issue  
18 around this. In any event, I'm just wondering if you  
19 have any reason to believe or recollection regarding the  
20 substance of this question which is basically were  
21 prisoners with 18-month clear conduct being processed,  
22 that's generally what I'm getting at?

23 A. Well, I believe this memo was generated based  
24 upon a meeting with the Marion and Terre Haute staff, we  
25 traveled to Terre Haute and met with them to discuss

1 operations and some daily things that were going on in  
2 the unit.

3 The, as I tried to clarify before, when we  
4 consider inmates for transfer we consider, we don't  
5 necessarily say all inmates are going to be recommended  
6 for transfer, whether in the CMU or not. So I would  
7 speculate that not every inmate at 18 months was  
8 submitted for a transfer. That's why we have guidance  
9 as to what to look at for any transfer along with our  
10 correctional expertise and correctional judgment.

11 Q. The next two questions in that bullet point  
12 there read, "If the warden using discretionary authority  
13 to deny some at the local level, how are the transfers  
14 now being documented and what is provided to the  
15 inmates," do you see that?

16 A. Yes.

17 Q. Do you recall in connection with that meeting at  
18 Terre Haute or otherwise discussions about the answers  
19 to these questions at that time?

20 A. I, I don't know that we asked these questions.  
21 I believe this was recommendations of issues to perhaps  
22 bring up in our discussion with Terre Haute. I do  
23 recall discussing the documentation and providing it to  
24 the inmate, I believe I recall that.

25 Q. What, what do you recall about, about the

1 documentation and what was provided to the inmate?

2 A. What I believe I recall is at every team meeting  
3 for any inmate, not just in the CMU, there is a form, I  
4 believe it's called the program review sheet or  
5 something to that and there's different sections on  
6 there. And the discussion of the transfer would be  
7 written on the form and the recommendation given to the  
8 inmate and inmates get copies of those forms.

9 Q. Okay. That's actually a good segue. Let's take  
10 a look at one of those documents, or at least what I  
11 believe is one of those documents. The document is in  
12 the packet numbered 15. It's a new exhibit and I'd like  
13 to mark it as 128.

14 (Deposition Exhibit Number 128  
15 marked for identification.)

16 Q. It's actually the last page of the document that  
17 I'd like to look at. So the page that I'd like you to  
18 look at is Bates stamped P004971. If you could take a  
19 look at that page and let me know when you've done so.

20 A. Okay.

21 Q. You mentioned that the information regarding  
22 transfer would be notated at the bottom of the, of the  
23 program review form you're referring to. Is this an  
24 example of a signature page of one of those forms?

25 A. I, I don't know. I believe there's more to the

# **EXHIBIT 104**



**Rina Desai - Re: Fwd: cmu visit agenda items**

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**From:** Cory Shepherd  
**To:** Siereveld, Katherine  
**Date:** 7/26/2011 8:48 AM  
**Subject:** Re: Fwd: cmu visit agenda items  
**CC:** Coleman, F. Timothy; Stephens, Michael L.  
**Attachments:** cmu visit agenda items.docx

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Good morning,

Thanks, but I have to say after thinking on it some, that I have no statistical response(s) in line for someone else's agenda push, nor will I produce any if expected, and will defer (acquiesce) on all accounts to be honest for my being a doer more so, than a talker... That said, Recreation and Education are always good and there is plenty of it going on formal, and non-formal which are leisurely conducted during all periods of each day, but I have to submit that (in my observation) no amount of education or vocational training, fixes any mental defect or proclivity toward any deviant behavior, and it is unfortunate that due to being pigeon holed in political correctness that moral training need not apply as long as right and wrong remain ambiguous, and black and white are grey. I cannot change that, other than in myself, and by example it in my work ethic, which is without any statistical compilation that I am aware. I wasn't ever any good at math any road. God Bless America.

>>> Katherine Siereveld 7/25/2011 4:57 PM >>>  
FYI...

This is the memo that I just received from Marion.

Katherine N. Siereveld  
Attorney Advisor  
FCC Terre Haute  
4200 Bureau Road North  
Terre Haute, Indiana 47802  
[REDACTED]

>>> Jeffrey L. Baney 7/25/2011 4:08 PM >>>  
Katherine,

These are some of the things we may wish to talk about during our THA visit



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

*United States Penitentiary*  
*4500 Prison Road*  
*Marion, IL 62959*

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*Office of the Executive Assistant*

July 21, 2011

MEMORANDUM FOR WENDY J. ROAL, WARDEN

FROM: Jeffrey L. Baney, Executive Assistant

SUBJECT: MAR/THA CMU Agenda Issues

- Potential for generating a standardized CMU Weekly Executive Staff briefing report that could be shared with CTU, example provided.
- Halal meals-Should there be consideration given for offering them via SPO.
- Educational Programming-What courses are being offered for ACE & VT. Are the ACE courses provided by the CMU secured from the General Population ACE education materials. Are there limitations on types/content of ACE subjects.
- Education or Recreation Departments dedicating a staff member for CMU programming.
- Thoughts about providing computer VT training.
- Procedures for inmates requesting transfer. Are all inmates who secure 18 months clear conduct being processed? Is the Warden using discretionary authority to deny some at the local level? How are the transfer denials being documented and what is provided to the inmate?
- Media inquiries, are all inquiries denied?
- What recreational programming is being offered? Level of inmate participation? Who passes out recreation equipment?

- Transitional Needs. What are they doing for RPP participation? Consideration for RDAP transfers if otherwise appropriate? RRC-length of placement?
- Confirm phone procedures. Officers still using master switch to turn phones on & off utilizing after being provided phone scheduled.
- SHU-Do they operate a law library, how do they accommodate SHU Recreation?
- Are any Arabic language DVD's, cassettes, etc being purchased for Religious Services and/or Education/Recreation?
- What legal materials are they allowing in the cell, where is excess legal materials being stored.
- Do they have any inmates with a laptop or hard drives?

# **EXHIBIT 105**

~~PROTECTED-ATTORNEYS EYES ONLY~~

## CMU Referral Process

Designations to the Communications Management Units (CMU's) are coordinated by the BOP's Counter Terrorism Unit, in consultation with BOP staff detailed to outside law enforcement agencies. Final approval authority for placement in the CMU's rests with the Regional Director, North Center Region.

Inmates are identified for CMU placement through:

- CTU communication monitoring and intelligence gathering
- Referral from the DSCC as part of the initial and re-designation process
- Referral from individual institutions or regional offices based upon an inmate's behavior or activities
- Recommendations from other law enforcement agencies or courts

The CTU will require the following information for review:

- Pre-Sentence Investigation Report (PSR)
- Judgement in a Criminal Case (J&C)
- Statement of Reasons (SOR)
- DHO reports relevant to referral, such as communication related (197, 297, etc.)
- Relevant SIS reports, PC investigations, etc.
- Memos, letters, etc., from courts, United States Attorneys Office, law enforcement officials, etc., relating to the referral
- Any other information or intelligence which may be related to the referral

CTU staff may draw upon sensitive information and the expertise of other law enforcement and intelligence agencies for assistance during the CMU review process.

The CTU will complete the necessary CTU referral documentation, including the Attachment A Form and forward a copy of the materials to the Office of General Counsel (OGC) for a review.

If OGC concurs with the CTU referral, the referral packet will be forwarded the North Central Regional Director.

Approval or denial by the North Central Regional Director will be noted in SENTRY on the inmate's "CIM Clearance and Separatee Data" by the Correctional Programs Administrator, North Central Region.

If an inmate is approved for CMU placement, the CTU will notify the DSCC to load the initial designation or re-designation.

Once the designation is loaded into SENTRY, movement of the inmate through the prisoner transportation system can be initiated.

## CMU Step Down Procedures

Unit Team staff in conjunction with the CTU will review the status of an inmate in a CMU to



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determine the inmate's readiness for transfer from the unit. The decision to transfer will reflect the Unit Team and CTU's judgment the inmate can function in a general population in manner that he or she is not likely to be a threat to others, or to the institution's orderly operation. CTU staff may draw upon sensitive information and the expertise of other law enforcement and intelligence agencies for assistance during the review process.

Ordinarily, inmates will need to spend a minimum of 18 months in a CMU. Time spent out of the unit for administrative or medical reasons will not be counted towards the minimum requirement.

Inmates are expected to maintain clear conduct and have no sanctioned incident reports to be considered for transfer.

Reviews for removal from a CMU would be in a manner consistent with sound correctional judgment and our STG management practices. This review would include a number of factors, to include an assessment of the threat posed by the inmate, his relative standing within the STG and if the inmate still presents a risk of engaging in radicalization or recruiting.

Information for consideration for removal from a CMU would be information which demonstrates that the original rationale for placement has been mitigated, the inmate no longer presents a risk of engaging in radicalization or recruiting, and/or does not require the degree of security and controls than are afforded at a CMU.

Inmate communications monitored by CTU staff and other sensitive reporting will be reviewed during transfer consideration.

Concurrence for transfer of the CMU Unit Team, CTU and the institution Warden must be obtained prior to submission to the North Central Regional Director for review and approval.

CTU staff, in conjunction with the Unit Team will prepare a referral packet for submission to the North Central Regional Director for transfer consideration.

The transfer packet will contain the following.

- Request for Re-Designation Memorandum (drafted by the CTU in consultation with the Unit Team)
- Pre-Sentence Investigation Report (PSR)
- Judgement in a Criminal Case (J&C)
- Statement of Reasons (SOR)

Inmates approved for transfer from a CMU will ordinarily be 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 six (6) months, as a step down process from the CMU.

Should the inmate continue to program appropriately while in general population after transfer from a CMU, he can be considered eligible for transfer to another appropriate security level facility.

Approval or denial will be noted in SENTRY on the inmate's "CIM Clearance and Separatee

PROTECTED-ATTORNEYS EYES ONLY

Data" by the Correctional Programs Administrator, North Central Region. If an inmate is approved for transfer from a CMU, the CTU will notify DSCC to load the redesignation.

Once the designation is loaded into SENTRY, movement of the inmate through the prisoner transportation system can be initiated.