



June 7, 2010

Ms. Sarah Qureshi
Office of General Counsel
Federal Bureau of Prisons
320 First Street, N.W.
Washington, DC 20534

Re: BOP Docket No. 1148-P
Communication Management Units

Dear Ms. Qureshi:

The Civil Rights Clinic (“CRC”) at the University of Denver Sturm College of Law, on behalf of its clients Omar Rezaq, Mohammed Saleh, El-Sayyid Nosair, and Ibrahim Elgabrownny, comments on the Bureau of Prisons’ (“Bureau” or “BOP”) proposal to amend 28 C.F.R. Part 540 – “Contact with Persons in the Community” to add “Subpart J – Communication Management Housing Units.” BOP Docket No. 1148-P, 75 Fed. Reg. 17324 (Apr. 6, 2010).

Mr. Rezaq, Mr. Saleh, Mr. Nosair and Mr. Elgabrownny are all Muslim men of Middle Eastern descent. Three of them (Mr. Rezaq, Mr. Saleh and Mr. Nosair) are currently held in solitary confinement in the USP - Florence Administrative Maximum prison (ADX), the Bureau’s only “supermax” facility. After being held in isolation in the ADX for seven years and successfully completing the ADX “Step-Down Program,” Mr. Elgabrownny recently was transferred to a Communication Management Unit (CMU) last year, with no notice or opportunity to be heard. Given that our other three clients share similar religious and ethnic backgrounds and crimes of conviction, the CRC fears that the same fate awaits them, if and when the Bureau decides they no longer require supermax confinement.¹

I. THE CMUs ARE UNNECESSARY BECAUSE THE BUREAU ALREADY MONITORS AND RESTRICTS PRISONERS’ COMMUNICATIONS VIA EXISTING LAW.

As a threshold matter, the CRC asserts that CMUs are unnecessary because existing law permits the Bureau to monitor and restrict prisoners’ communications when

¹ Indeed, the Notice of Proposed Rulemaking mentions Mr. Nosair and Mr. Elgabrownny by name (75 Fed. Reg. at 17326), as did a prior proposed regulation entitled “Limited Communication for Terrorist Inmates” that the Bureau submitted for notice and comment in 2006 but never finalized. See Limited Communication, 71 Fed. Reg. 16520. This leads to the almost inescapable conclusion that as early as 2006, the Bureau had already predetermined that if Mr. Nosair and Mr. Elgabrownny were ever to be released from the ADX, they would be sent to a CMU.

