

## **Concerned Individuals**

Chesa Boudin  
183 Dwight Street, Apt 4  
New Haven, CT, 06511

6/1/2010

Rules Unit, Office of General Counsel  
Bureau of Prisons (BOP)  
320 First Street, NW  
Washington, DC 20534

**Re: BOP Docket #1148-P  
Communication Management Units**

To Whom It May Concern:

I am writing to express my concern over the establishment of, and conditions at, the Communications Management Units (CMUs) that are being run by the BOP in Terre Haute, Indiana and Marion, Illinois. I have read the proposed rule that was published in the Federal Register on April 6, 2010, and I am troubled not only by the conditions and policies proposed in that rule, but also by existing practices at the CMUs. The CMUs are needlessly destructive to families, have been used to disproportionately confine Muslim and political prisoners, and violate basic constitutional protections. I urge the BOP to abandon this proposed rule.

While the CMUs are troubling on a range of fronts, I will focus my comments on their destructive impact on children and families of the inmates. First some background on my perspective and experience. Both of my parents were incarcerated in maximum security prisons in New York State from the time I was 14 months old. My mother served 22 years before release on parole and my father remains incarcerated to this day. Thus, what follows is based on my personal experience growing up with incarcerated parents and the rigors of prison security as a barrier to my family development. It is also based on more than a decade of research, publishing, consulting, and lecturing on issues of parental

incarceration. I have been invited to speak at conferences including: The National Community Sentencing Association conference; The Federal Resource Center for Children of Prisoners' One day Institute, Sponsored by the Child Welfare League of America; The North American Conference on Fathers Behind Bars and on the Street; The Fifth North American Conference on the Family & Corrections, and many more.

When judges sentence convicts to prison, and when prison administrators determine visitation policies, minor children are often left behind. This is not an obscure issue but rather has significant, daily ramifications for an entire generation of American youth. As incarceration rates have spiraled by over 500 percent in the last thirty years,<sup>1</sup> so have the number of children who lose their parent or parents to the prison system.<sup>2</sup> In fact, in the United States there are more children with incarcerated parents than there are people in prison.<sup>3</sup> Incarcerating parents of minor children is not just an issue for those sentenced to prison: it also generates third party harms for the children, for their caregivers, for the welfare apparatus of the state, for the prison system, and for the law.<sup>4</sup> More specifically, parental incarceration implicates myriad legal issues related to

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<sup>1</sup> The Sentencing Project, News, Incarceration, <http://www.sentencingproject.org/template/page.cfm?id=107> (last visited Bureau of Justice Statistics Correctional Population Trends Chart, BUREAU OF JUSTICE STATISTICS, *available at* <http://bjs.ojp.usdoj.gov/content/glance/corr2.cfm>).

<sup>2</sup> LAUREN E. GLAZE & LAURA M. MARUSCHAK, BUREAU OF JUSTICE STATISTICS SPECIAL REPORT, PARENTS IN PRISON AND THEIR MINOR CHILDREN 1 (Aug. 2008), *available at* <http://bjs.ojp.usdoj.gov/content/pub/pdf/pptmc.pdf>.

<sup>3</sup> *Id.* at 1.

<sup>4</sup> *See generally* RENNY GOLDEN, WAR ON THE FAMILY: MOTHERS IN PRISON AND THE FAMILIES THEY LEAVE BEHIND (2005) (analyzing collateral impacts of mass incarceration); CHILDREN WITH PARENTS IN PRISON: CHILD WELFARE POLICY, PROGRAM, & PRACTICAL ISSUES (Cynthia Seymour & Creasie Finney Hairston, eds., 2001) (discussing permanency planning, best interests of the child, and child welfare policy); BARBARA BLOOM & DAVID STEINHART, WHY PUNISH THE CHILDREN? (1993) (considering the roles and responsibilities of child welfare agencies, corrections, caregivers, and incarcerated mothers).

custody,<sup>5</sup> communication,<sup>6</sup> visitation,<sup>7</sup> conditions of confinement,<sup>8</sup> international standards,<sup>9</sup> and more.<sup>10</sup>

As in the rest of the prison system, inmates in the CMUs have children who are innocent of any crime but who suffer when they are deprived of a relationship with their parents. Indeed, most children with incarcerated parents demonstrate a range of developmental and behavioral problems associated with the separation from their parents;<sup>11</sup> I was no exception. For me, building a relationship with my parents in prison was an essential part of overcoming my early childhood challenges. I benefited from frequent letters, phone calls and visits with both of my parents. In fact there were *no limits* on the number of phone calls or letters I was allowed to receive. Contact visits were allowed from 830am until 330pm 365 days per year. In addition, as long as my parents maintained a clean disciplinary record, we were allowed overnight visits through the Family Reunion Program.<sup>12</sup> These mechanisms of communication were a crucial part of my development, ability to build self-confidence, succeed in school, and move forward

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<sup>5</sup> See, e.g., *Santosky v. Kramer*, 455 U.S. 745 (1982) (requiring a clear and convincing standard of evidence before terminating petitioners' parental rights); Mariely Downey, *Losing More than Time: Incarcerated Mothers and the Adoption and Safe Families Act of 1997*, 9 BUFF. WOMEN'S L.J. 41, 45 (2000) (detailing the impact of the Adoption and Safe Families Act on termination of parental rights of the incarcerated).

<sup>6</sup> See, e.g., *Walton v. New York State Dept. of Correctional Servs.*, 13 N.Y.3d 475, (2009) (upholding New York State Department of Correctional Services prison phone policies).

<sup>7</sup> See, e.g., *Overton v. Bazzetta*, 539 U.S. 126 (2003) (upholding department of corrections policies severely limiting prison visitation by children of inmates).

<sup>8</sup> See, e.g., *Block v. Rutherford*, 468 U.S. 576 (1984) (challenging conditions of confinement of pretrial detainees, including access to contact visits from children).

<sup>9</sup> See, e.g., African Charter on the Rights and Welfare of the Child (1999), art. 30 ("States Parties to the present Charter shall undertake to provide special treatment to expectant mothers and to mothers of infants and young children... and shall in particular: a. ensure that a non-custodial sentence will always be first considered when sentencing such mothers; b. establish and promote measures alternatives to institutional confinement for the treatment of such mothers").

<sup>10</sup> See generally Tanya Krupat, *Invisibility and Children's Rights: The Consequences of Parental Incarceration*, 29 WOMEN'S RIGHTS L. REP. 39 (2007) (describing the challenges children with incarcerated parents face, and arguing for a children's bill of rights).

<sup>11</sup> See generally NELL BERNSTEIN, *ALL ALONE IN THE WORLD* (2007) (detailing the plight of children with incarcerated parents); CHILDREN OF INCARCERATED PARENTS (Katherine Gabel & Denise Johnston, eds., 1995) (providing guidance to social workers, caregivers, and others who work with children of incarcerated parents).

<sup>12</sup> As early as 1980 the New York Department of Correctional Services published findings suggesting that the program decreased recidivism rates as much as sixty-seven percent. D. G. MacDonald & D. Kelly, *Follow-Up Survey of Post-Release Criminal Behavior of Participants in Family Reunion Program*, NATIONAL INSTITUTE OF JUSTICE (1980).

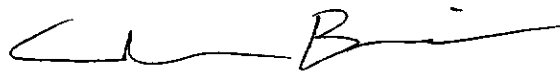
with my life. Given the right conditions, most children can benefit from a relationship with their incarcerated parents.<sup>13</sup>

The CMUs, however, deny children any meaningful relationship with their incarcerated parents. Improving prison conditions and communication for families of prisoners is necessary for the healthy development of children with incarcerated parents. I urge the BOP to abandon the CMUs altogether or to at least allow for regular and direct communication, contact and visitation with families and children of inmates.

I have been luckier than most children with incarcerated parents will be. As a society our challenge is to make the criminal justice system work so that innocent children do not need to get lucky to come out as healthy, productive members of their communities. If we are to address the needs of the innocent children left behind, we must consider prisoners' continuing role as parents.

I hope that the BOP will take the above concerns into account as it decides whether to adopt this proposed rule. I thank you for your consideration of my above stated concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chesa Boudin', written in a cursive style.

Chesa Boudin  
Yale Law School  
127 Wall Street  
New Haven, CT, 06511

cc: Center for Constitutional Rights

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<sup>13</sup> Denise Johnston, *Parent-Child Visitation in the Jail or Prison*, in CHILDREN OF INCARCERATED PARENTS, *supra* note 11, at 138; CHILDREN WITH PARENTS IN PRISON, *supra* note 11, at 13. Note also, that visitation with children and family members is strongly correlated with reduced recidivism rates for inmates. Christy A. Visher & Jeremy Travis, *Transitions from Prison to Community: Understanding Individual Pathways*, 29 ANN. REV. SOC. 89, 100 (2003).

David Capone  
Schenectady, NY 12304

May 27, 2010

Rules Unit, Office of General Counsel  
Bureau of Prisons (BOP)  
320 First Street, NW  
Washington, DC 20534

**Re: BOP Docket #1148-P  
Communication Management Units**

To Whom It May Concern:

I am writing to express my concern over the establishment of, and conditions at, the Communications Management Units (CMUs) that are being run by the BOP in Terre Haute, Indiana and Marion, Illinois. I have heard about the proposed rule that was published in the Federal Register on April 6, 2010, and as a faith-based U.S. citizen I am troubled by the conditions and policies proposed in that rule. **I urge the BOP to abandon this proposed rule.**

The process of herding Muslim prisoners into two locations is reminiscent of what happened in America of interring people of Japanese descent after the bombing of Pearl Harbor. In 1988 however, Congress recognizing the illegality and inhumane behavior passed and President Ronald Reagan signed legislation which apologized for the internment on behalf of the U.S. Government stating that government actions were based on "race prejudice, war hysteria, and a failure of political leadership". I suspect some future President will apologize for our present mistreatment of Muslims.

In particular I urge that the blanket ban on physical contact be removed. It is commonly known that psychologists say that the lack of physical touch is extremely harmful to the overall well being of the human species. Why then would the BOP adopt such a cruel policy or practice? Surely if there is some security issue there are ways to monitor such concerns.

I hope that the BOP will take the above concerns into account as it decides whether to adopt this proposed rule. I thank you for your consideration of my above stated concerns.

Sincerely,

David Capone

cc: Center for Constitutional Rights

Brendan Wheeler  
Brooklyn, NY 11206

24 May 2010

Rules Unit, Office of General Counsel  
Bureau of Prisons (BOP)  
320 First Street, NW  
Washington, DC 20534

**Re: BOP Docket #1148-P  
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Unlike other BOP facilities, the CMUs have a lack of due process. The inmates have no real review process by which they can be transferred out of the CMU. This is especially troubling given the fact that it isn't clear why they are in the unit in the first place. Given that the inmates are over sixty percent Muslim and many inmates have political cases and/or are politically outspoken individuals, the CMU units under the proposed rules are not only unjust to the CMU inmates, the rules also amount to discrimination against Muslims and "political prisoners" in BOP custody.

I can personally attest that the current restrictions on communication for CMU inmates serve to curtail the inmate's connection to family and community. It is a well documented fact that communication with family and community are crucial for an inmate's successful rehabilitation to life in society, not to mention the general well-being of inmate and family alike. The current restrictions are unjust and serve no purpose and the proposed restrictions are even more restrictive.

I trust you will take the above concerns into consideration regarding the proposed rule. Thank you for your concern and for the action you will take.

Sincerely,  
Brendan Wheeler

I write in strong opposition to the proposed rule. Having been jailed for 159 days myself under harsh, restrictive conditions, I speak from experience when I say that the proposed rule constitutes cruel and unusual punishment. It is enough to keep men and women confined under the extreme conditions found in a maximum security prison. The social and psychological blows of living under those conditions are all that is necessary to punish society's wrongdoers. Anything at all along the lines that the proposed rule contemplates--which amounts to cutting prisoners off from nearly all outside communication--adds utterly unnecessary and inhumane blows to what are already awful, degrading circumstances. Moreover, what is the purpose of the rule? What good will it possibly do? Do we not want persons, when they leave prison, to be able to function effectively in society? Do we want them to return to prison? Is there any danger to society in placing a couple of monitored phone calls, sending and receiving monitored mail, and the like? The proposed rule helps ensure that precisely those sorts of nonsensical, excessively punitive results will be realized if the rule is put into place. The United States is better than this rule. Humanity, decency, and good sense require that the current CMU rules remain in effect.

(under the name James Scarce)

Rik Scarce  
Associate Professor of Sociology  
Department of Sociology, Anthropology, and Social Work  
221 Tisch Learning Center  
Skidmore College  
Saratoga Springs, New York 12866-1632

I am very concerned at the new rules the BOP has proposed for the CMUs, which are already very restrictive prison facilities with questionable legal standing. Prisoners at the CMUs cannot challenge their designation and their behavior has no bearing on their assignment to these detention centers. Without any legal recourse or means of earning an improved situation, they are punished through extreme limitations on their contact with family and friends. No-contact visits, extremely brief phone calls, the proposed mere 3 pages of letters (the primary means of communication with those outside), and the proposed limitation of visitors to immediate family members would be devastating for these prisoners whose communication is already severely limited. These rules would harm relationships and certainly cannot be helpful in assisting prisoners in their transition back to society. Additionally, the extreme overrepresentation of Muslims at the CMUs demonstrates a disturbing example of discrimination. The CMUs should allow communication comparable to that of other prison facilities, rather than further limiting it. They should offer inmates a clear and accessible means of working to transfer out of the facilities, and they should absolutely not exist to further discrimination against minorities.

Leah Todd

























































































































