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Cruel conditions for pre-trial prisoners in US federal custody

Bradley Manning, the US soldier accused of leaking information to Wikileaks, who is currently in military custody in Virginia, is not the only federal prisoner to be held in pre-trial isolation in conditions of concern to Amnesty International.

The organization has called for a review of conditions in the Special Housing Unit (SHU) of the federal Metropolitan Correctional Center (MCC), New York, where prisoners have sometimes spent long periods confined to small cells with little access to natural light or fresh air. Amnesty International believes that conditions in the unit flout international standards for humane treatment.

In a letter to Attorney General Eric Holder in February, Amnesty International expressed concern that the combined effects of prolonged isolation and other deprivations in the unit amounted to cruel, inhuman and degrading treatment.

Amnesty International said that the conditions also appeared incompatible with the presumption of innocence in the case of untried prisoners who have not committed offences within the institution, and whose detention should not be a form of punishment.

The unit, known as MCC 10th Floor South, comprises six cells where prisoners are confined alone for 23 or 24 hours a day. Amnesty International has been told that the windows in the cells are painted over so that there is no view to the outside and little natural light. Prisoners held in the unit have no contact with other inmates and eat all meals in their cells, which are reportedly furnished only with a concrete bed, toilet and sink. They have no outdoor exercise, contrary to the United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners.

The unit has been used to house, among others, pre-trial detainees charged with terrorism-related offences. Most have been placed under Special Administrative Measures (SAMs), rules which impose severe restrictions on communication with other inmates and the outside world.

Amnesty International does not know how many prisoners are confined to the unit at the present time, and it has received no response to its request, in February, for permission to view the unit. However, some prisoners have spent months or years in the above conditions while awaiting trial. They include:

- Syed Fahad Hashmi, a US national who spent nearly three years in isolation before pleading guilty in April 2010 to one count of conspiring to provide material support to al-Qaida. Apart from his lawyer, he was allowed non-contact visits – at most twice a month – only with his parents and brother, each of whom he was required to see separately. Family visits were often delayed and were suspended for three months when guards said they saw him practising “martial arts” in his cell, although Syed Fahad claimed he was just exercising. He had limited or delayed access to reading materials and to news throughout his pre-trial detention. Since being convicted he has remained in solitary confinement under SAMs. Since March 2011, he has been incarcerated in the federal Administrative Maximum (ADX) “supermax” facility in Florence, Colorado, where more than 400 prisoners are held in isolation.
- Oussama Kassir, a Swedish national accused of attempting to set up a Jihad training camp in the USA, spent pre-trial detention of more than 18 months confined to an MCC SHU

cell for virtually 24 hours a day. He was reportedly denied phone calls with his family for several months. He is also serving his sentence in ADX Florence.

- Abduwali Abdukhadir Muse, a young Somali pirate involved in the 2009 hijacking of a US cargo ship, and sentenced to 34 years in prison in February 2011, spent about a year in the MCC SHU in a “small cell with blackened windows”, according to court filings. He is now in the general population part of the facility, awaiting transfer to a US prison.

Several lawyers who have represented prisoners in MCC 10th Floor South have told Amnesty International that the conditions had a negative impact on their clients’ mental state, causing agitation, depression and an inability to focus. They also reported that the non-contact visitation made it difficult to communicate with their clients, particularly when dealing with large amounts of evidentiary materials. This raises concern that such conditions may impair a defendant’s ability to assist in his or her defence and thus the right to a fair trial.

In its letter to Attorney General Holder, Amnesty International called for all prisoners in federal custody, including those deemed to be a security risk, to be treated humanely. It urged that detainees in MCC 10th Floor South be provided with adequate exercise and family visits, better conditions inside and outside their cells, and access to their attorneys under conditions which do not impede the preparation of their defence.

The organization also urged that all prisoners under SAMs, whether convicted or awaiting trial, have a meaningful opportunity to have the restrictions reviewed, with a view to alleviating conditions of long-term isolation.

Conditions of extreme isolation and solitary confinement have been imposed by the US authorities in various contexts in recent years, including in the case of “war on terror” detainees held in Guantánamo Bay and in military custody on the US mainland. Ali Saleh Kahlah al-Marri and Jose Padilla were both held in isolation for years as “enemy combatants” in military brigades in the USA, before being charged and transferred to the civilian system for trial. While some 172 detainees continue to be held in Guantánamo Bay, in violation of international law, most are no longer in extreme isolation.

For a copy of Amnesty International’s letter to the US Attorney General, sent in February 2011, please see: <http://www.amnesty.org/en/library/info/AMR51/029/2011/en>