

UNITED KINGDOM

Special Security Units: Cruel, inhuman or degrading treatment

Amnesty International is concerned that the Special Security Units (SSUs), in which “exceptional escape risk” Category A prisoners are held, constitute cruel, inhuman or degrading treatment and deny prisoners their right to a fair trial in violation of the United Kingdom’s obligations under international treaties. The organization’s concern about the SSUs is part of a wider concern about the conditions in which Category A prisoners are held.

Prisoners, on remand for or convicted of serious offences, can be categorized as Category A if their escape is considered as highly dangerous to the public or the police or to the security of the state. Category A prisoners are divided into three sub-categories: standard risk, high risk and exceptional risk (of escape). In February 1997 there were approximately 900 Category A prisoners in England and Wales. Under the national Prison Rules it is possible for Category A prisoners (including "high risk" prisoners) to have association with a large group of prisoners, and to have access to a range of educational, exercise, and sports facilities, and visits which are “open”, ie. no barrier to communication or contact between the prisoner and visitors. However, for reasons which the prison authorities attribute to understaffing or inadequate facilities, Category A prisoners are often denied many of these basic rights, which are recognized under international standards, on an arbitrary basis or they are forced to choose between visits or exercise, a shower or a phone call. Amnesty International has received many allegations from Category A prisoners, particularly those on remand, that they are locked up in their cells for most of the day and that they do not get access to adequate exercise, enough daylight, educational or work facilities, or adequate medical attention. In some instances, Category A prisoners have developed serious psychological problems as a result of their conditions of imprisonment, which have also impaired their ability to prepare their defence.

These conditions are greatly exacerbated in SSUs. Many of these basic rights, which in principle are supposed to apply to Category A prisoners, are denied. The SSU is a prison within a prison. A small number of prisons in England have SSUs: Whitemoor Prison and Full Sutton Prison for convicted prisoners and Belmarsh Prison for remand prisoners. Such units do not exist in Northern Ireland, where prisoners who could similarly be considered at high risk of escaping are also held. In mid-1995 there were 15 prisoners held in SSUs; in mid-1996, there were 18; and in February 1997 there were approximately 25. About half of such prisoners are Irish. Prisoners are not given an explanation as to why they are considered more of an escape risk than other prisoners, who are sentenced to similar serious offences. This has led to allegations that some prisoners have been arbitrarily and punitively singled out for a particular form of detention. Prisoners are not able to challenge the decision to place them in the SSU system, nor do they know for how

long. There are no mechanisms which would provide a realistic opportunity for the prisoners to meet conditions required in order to be removed from the SSU. The average time of stay appears to be about five years; however, in some cases people have been kept in SSUs for up to 10 years. Liam O'Duibhir, for example, has been in SSUs since he was sentenced in 1990.

Prisoners held in SSUs are not allowed to leave the Units except to go to court or hospital. Thus they are held in "small-group isolation". This means that association is limited to fewer than 10 people, often the same people, also being held in the SSU. Amnesty International believes that long-term small-group isolation, particularly coupled with other conditions in the SSUs, has had a harmful effect on prisoners' health, and that alternatives should be sought to small-group isolation as a regular form of imprisonment. In 1979 Amnesty International carried out a study of solitary confinement and small-group isolation of prisoners in the Federal Republic of Germany. The study found that many of the prisoners suffered from pathological disorders caused by the conditions of their confinement, including emotional disturbances, impairment of concentration and ability to think, loss of a sense of reality and neuroses. Physical effects included disturbances to the autonomic nervous system, low blood pressure and circulation problems, headaches, dizziness, digestive problems and sleep disturbances.

Prisoners held in SSUs are not allowed to participate in any of the regular prison activities; they cannot go to the library, the main gym, sports fields, or the prison chapel. Access to education, useful activity and work facilities is severely limited within the SSUs.¹ This has led, for example, to prisoners being told in Whitemoor Prison SSU in July 1995 that the "requirement that inmates be gainfully employed" consists of one and a half hours' daily cleaning tasks.

One remand prisoner said that his cell in the Belmarsh SSU measured 3 m X 1.8 m; in this space there was a 76 cm wide bed bolted to the wall, a small fixed table bolted to the opposite wall, a bench which was partly under the desk and fixed to the floor, and a toilet. The very limited physical confines of the units, especially at Full Sutton and Belmarsh Prisons, have been described as "claustrophobic" and "cramped" by a former Chief Medical Officer. These impede prisoners' distance vision, which has led to a deterioration of prisoners' eyesight, and headaches. The SSUs in two of the three prisons, Full Sutton and Belmarsh, have very limited natural light. The lack of access to natural light is exacerbated by the fact that exercise yards in all the SSUs are covered by metal grids and metal mesh so dense that no clear view of the sky can ever be had. The lack of

¹ Rule 66 of the European Prison Rules requires that prison regimes should include opportunities for relevant work, training, education, and recreational activities. Rule 83 of the European Prison Rules requires prison regimes to "recognise the importance to physical and mental health of properly organised activities to ensure physical fitness, adequate exercise and recreational opportunities".

access to open air, bright daylight and exercise in a larger space violates international standards and has led to a variety of debilitating physical effects in prisoners, including generalized muscle wasting.² Prisoners have stated that they have suffered significant weight loss and stomach disorders because of inadequate food. Prisoners also complained that they were not given vitamin supplements. The severe restriction on all forms of stimulation in this environment has caused prisoners to develop reclusiveness and an inability to communicate as well as to suffer from a lack of concentration and loss of memory.

In addition, all visits of Category A prisoners in SSUs are "closed"³ meaning that the prisoner is separated from the visitor by a glass barrier and communication is via a telephone or a grill. Lawyers have stated that the imposition of "closed" legal visits has severely hampered their ability to communicate with their clients and to prepare their clients' defence in an effective and constructive way.⁴

International law, including treaties to which the UK is a party, such as the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms, guarantee everyone the right to a fair trial. These treaties, and other international standards, guarantee the right to be able to present a legal defence. Prisoners have the right to prompt access and confidential communication with their lawyers,⁵ as well as the right to adequate time and

² The United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules) state that prisoners should be able to exercise daily in the open air and that there should be natural daylight in their cells. Rule 11 states: "In all places where prisoners are required to live or work, (a) the windows shall be large enough to enable prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation." Rule 21(1) states: "Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits." Rules 16 and 86 of the European Prison Rules have the same requirements respectively.

³ "Closed" visits were introduced in June 1995.

⁴ The allegation that this policy hampers the unfettered access by prisoners to legal advice was raised by the UN Special Rapporteur on the independence of lawyers and judges in his 1996 annual report to the UN Commission on Human Rights (E/CN.4/1996/37).

⁵ Principle 18 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that "a detained or imprisoned person has the right to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel". Rule 93 of the Standard Minimum Rules provides: "For the purposes of his defence, an untried prisoner shall be allowed to .. receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing materials." Principle 8 of the UN Basic Principles on the Role of Lawyers provides: "All arrested, detained or imprisoned persons shall be provided with adequate opportunities,

facilities to prepare their defence.⁶ The interference in the lawyer-client communication, because of the "closed" visit regime, has impeded the preparation of the defence of remand prisoners in SSUs and therefore has undermined the fairness of the trial proceedings.⁷ Because of the complicated nature of preparing a defence in some cases, including the need to view video tapes, to consider collectively lengthy documents or to compare numerous documents, communications on the telephone with a glass barrier between the lawyer and the client significantly hamper the preparation of the defence in violation of the detainees' right to a fair trial. In February 1997 Amnesty International was informed that 11 prisoners have refused "closed" legal visits because of the impossibility of preparing their defence cases.

"Closed" social visits take place in the sight and hearing of a prison officer. According to expert psychiatric opinion, such "closed" visits cause difficulties in maintaining long-term relationships with members of the prisoner's family, in particular because the deprivation of physical contact is compounded by the lack of privacy.⁸ Relatives of SSU prisoners wrote to Amnesty International describing their experiences of "closed" visits. One relative who was visiting a remand prisoner stated:

"[He] is brought in and the prison officer stays in with him; he has a notebook and pen. There are cameras... Until the intercom system is switched on we cannot hear each other and even when it is we have to lean down and shout into it to be heard. Sometimes we can't hear each other properly and it is frustrating for all of us and makes the visit hard work rather than any pleasure at seeing him. Conversation is somewhat stilted because you know they are taping and recording every word of it; and also because everyone's voice sounds so artificial and robotic.... They cannot even touch another human hand, because of their visiting conditions."

time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality."

⁶ Article 14(3)(b) of the ICCPR and Article 6(3)(b) of the European Convention on Human Rights both require that everyone charged with a criminal offence shall "have adequate time and facilities for the preparation of his defence".

⁷ The Human Right Committee's general comment on the right to fair trial explains that ICCPR Article 14(3)(d) requires that: "[l]awyers should be able to counsel and to represent their clients in accordance with their established professional standards and judgement without any restrictions, influences, pressures or undue interference from any quarter."

⁸ Article 23 of the ICCPR states: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State." Article 79 of the Standard Minimum Rules states: "Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both."

Another relative wrote:

"This experience for me was extremely upsetting and humiliating. We have a 16-month-old son who is essentially being prevented from seeing his father as it would be totally unacceptable - and I believe damaging - to bring him into such a visit. I feel that we are being punished, as well as [him]. These types of visits totally contradict British Prison Rules which state that everything reasonably possible should be done to facilitate the maintaining of relationships between prisoners and their families."

Despite the "closed" nature of the visits and the impossibility of any physical contact between the prisoner and the visitor, prisoners are subjected to metal detecting searches and then strip-searches before and after every visit. Recently, the SSUs have introduced a policy of discretionary "squat" searches in addition to the full strip-search procedure. During "squat" searches a prisoner is required to remove his trousers and underwear and then to bend over or squat. It has been alleged that prisoners refusing a "squat" search in Belmarsh Prison have been forcibly stripped and searched. Some prisoners have alleged that they were ill-treated during such "squat" searches.

It is difficult to understand what security considerations might warrant strip-searches and "squat" searches, given the "closed" visits. Such procedures may in certain circumstances constitute cruel, inhuman or degrading treatment and they should only be carried out when strictly necessary for security reasons and if no other less intrusive methods of searching can be used. Sir Peter Woodhead, the Prisons Ombudsman, has stated in a letter to Amnesty International:

"[S]trip searching is a potentially humiliating procedure and intimate body searching (including squatting) is doubly so. It is therefore important that their use is kept to the minimum necessary for the maintenance of order and control in prison and the prevention of escapes."

Another security measure which has caused prisoners to suffer from symptoms of tiredness and experience anxiety is the practice of hourly checks on prisoners during the night. These checks appear to involve the turning on of lights in the cell. In addition, at times, prison guards demand that each prisoner give a verbal indication that he is in the cell.

The combination of all these deprivations has led to the serious physical and mental deterioration in some prisoners. It is claimed that a psychiatrist is in regular attendance in relation to the welfare of the prison officers but that such services are not provided to prisoners. The official brochure of SSU Information for Prisoners states, "You may apply to see a member of the Psychology Team, giving reasons as to why you want to

see them in order to be placed on their waiting list". However, prisoners have complained that they have not received adequate medical attention, either for physical or psychological problems.⁹ One prison governor stated in August 1996 that he was not aware of any systematic collection of information regarding the mental health of prisoners in his SSU or in SSUs generally.

Independent medical and psychological examinations were conducted on some of the prisoners in SSUs in December 1994 and May 1995, the results of which were communicated to the Prison Service. At that time doctors highlighted a pattern in the symptoms of the prisoners: loss in weight, headaches and stomach pains, generalized muscle wasting, anaemia, oral thrush, deteriorating vision and memory, and anxiety symptoms. One of the doctors who examined the prisoners commented on the lack of thorough medical examination notes. Prisoners also complained that even if their symptoms had been noted by the prison doctor, the necessary follow-up medical attention was not provided, whether it was medication, or a referral for specialist attention.¹⁰ The Prison Service did not take adequate measures to address the symptoms, and when some of the same prisoners were examined again independently in July 1996, their condition had deteriorated further.

In May 1996 the Director-General of the Prison Service commissioned an inquiry by Sir Donald Acheson, the former Chief Medical Officer, into the effects of the SSUs on prisoners' health. The report of that inquiry, completed in mid-1996, was never published. It recommended that prisoners should be held in SSUs for as short a period as possible; that more opportunities for mental stimulation and physical exercise should be provided, including the provision of meaningful activities; and that prisoners should have access to open visits with members of their immediate family. It criticized the cramped conditions and lack of natural daylight at Belmarsh and Full Sutton Prisons in particular and stated that they could lead to mental health problems. The report also concluded that,

⁹ Rule 25 of the Standard Minimum Rules states: "(1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed. (2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment." Rule 30 of the European Prison Rules has an almost identical requirement.

¹⁰ Principle 1 of the UN Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment, adopted by the General Assembly in Resolution 37/194 of 18 December 1982, states: "Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained."

“the combination of uncertainty concerning the sentence plan and the length of stay on the unit, together with lack of: opportunities for meaningful work, natural visual and auditory stimuli, social contact outside a small group of prisoners, incentives, and physical contact with families and friends, if sustained for several years is likely to lead to significant adverse effects on mental health in a proportion of prisoners”.

Amnesty International believes that the report should be published immediately. As a result of the report, the Prison Service stated on 10 February 1997 that the first of quarterly mental health checks would begin in March. The Prison Service also stated that it was considering whether it could provide more opportunities for mental stimulation, physical exercise and work.

Three psychiatrists prepared a report on the psychiatric effects of imprisonment in SSUs in January 1997.¹¹ They also carried out further psychiatric examinations on five prisoners who had been held in SSUs for lengthy periods of time and who were on trial together for attempting to escape from Whitemoor Prison. They are Peter Sherry, Liam O’Duibhir, Liam McCotter, Andrew Russell and Danny MacNamee.¹² The psychiatrists concluded that the SSU regime “comprises an environment, a set of practices in that environment and a set of rules regarding de-categorisation which constitute a systematic physical and psychological stressor likely to lead to mental and physical disorders”.

The psychiatrists also concluded that, “four of these defendants have developed mental illnesses which go beyond the ordinary and expected anticipatory anxiety. In each case the men are labouring under cognitive impairments which place them at a disadvantage in comparison with the ordinary defendant”. They found that the isolation from their families and the anxiety caused by the inability to communicate straightforwardly with their lawyers combined to produce serious mental illnesses of a depressive nature and, in the case of some of the prisoners, phenomena of depersonalization, severe symptoms of anxiety with panic attacks and severe anxiety disorders. The trial judge hearing the case of six prisoners in connection with an escape from Whitemoor Prison decided in January 1997 that he would not order a retrial because of the mental condition of most of the defendants.

The psychiatrists also expressed concern about the systematic frequent use of the segregation units, attached to the SSUs. The psychiatrists were concerned that the use of solitary confinement in the segregation unit in the Whitemoor SSU was not systematically

¹¹ "Psychiatric Effects of Imprisonment in Special Security Units", 13 January 1997.

¹² Two of these prisoners, Peter Sherry and Liam McCotter, have recently had their category lowered from "exceptional risk" to "high risk".

quantified, audited or reported, and that prisoners did not receive information about how long they would be held in the segregation unit. They also criticized the even greater restrictions within the segregation unit, including the inadequacy of the exercise yard; the lack of daylight in the segregation unit and the exercise yard; and the arbitrary access to exercise, showers and other facilities.

AMNESTY INTERNATIONAL CONCERNS AND RECOMMENDATIONS

Amnesty International is greatly disturbed by the conditions in the SSUs, including "small-group isolation"; the lack of adequate exercise, sport, educational and work facilities; the lack of natural daylight and long-distance vision; the lack of adequate medical treatment; and strip-searching and other security measures, including the "closed" visit regime. Many aspects of the SSU regime violate international standards. The conditions, which have led to serious physical and psychological disorders in prisoners, constitute cruel, inhuman or degrading treatment.¹³

Article 7 of the ICCPR and Article 3 of the European Convention on Human Rights both require that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Moreover, Article 10(1) of the ICCPR states, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." The Standard Minimum Rules require basic safeguards that should as a minimum be put in place to protect the physical and mental integrity of all prisoners. In addition, international standards stipulate that prisoners should have access to all appropriate medical and psychiatric attention.

The conditions within the SSUs have also seriously interfered with the exercise of remand prisoners' right to a fair trial, both because they undermine the defendants' capacity to prepare their defence and because they restrict the facilities for the preparation of their defence through "closed" legal visits. In the case of the five prisoners mentioned above, the psychiatrists concluded, "their mental capacities to fully engage with and participate in the preparation of their defence in connection with the forthcoming trial has been impaired by these disorders [including depression, anxiety and post-traumatic stress disorder], to an extent greater than would normally be produced by conditions of imprisonment".

¹³ Article 3 of the UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states: "No state may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances ... may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment."

Amnesty International urges the authorities to seek alternatives to the use of "small-group isolation" as a regular form of imprisonment. The organization calls on the authorities to ensure that security considerations do not undermine the requirements of international standards and to eliminate such aspects of conditions of imprisonment that may constitute cruel, inhuman or degrading treatment. In particular, prisoners' physical and mental health should not deteriorate as a result of punitive measures which appear to be arbitrarily applied in the name of security and which constitute cruel, inhuman or degrading treatment.

The authorities must ensure that prisoners are not held in conditions which violate their right to a fair trial, either because of the imposition of "closed" legal visits or because the conditions pose a risk to prisoners' mental or physical health to such an extent that they are incapable of participating fully in the preparation of their defence.

The government's own inquiry, carried out in 1996 by Sir Donald Acheson, concluded that the conditions in the SSUs could lead to mental illness. The response by the government to date to that report has been totally inadequate. Amnesty International urges the government to publish the report of this inquiry and to act on the recommendations. In particular the organization would draw the government's attention to the need to provide alternatives to small-group isolation; adequate exercise, sport, educational and work facilities; and access to natural daylight and long-distance vision. In addition, the government should address the issues of strip-searching and other security measures, including the "closed" visit regime; the need for the prisoners to have an input into a regular review of their categorization; and the provision of medical and psychiatric examinations as well as treatment.