



UNITED STATES MISSION  
TO THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS  
IN GENEVA

August 4, 2014

OHCHR REGISTRY

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Recipients: SPB

United Nations Office of the High Commissioner  
for Human Rights (UNOHCHR)  
Palais Wilson  
1211 Geneva

To the attention of:

Ms. Gabriela Knaul, Special Rapporteur on the independence of judges and lawyers

Mr. Ben Emmerson, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Mr. Juan E. Méndez, Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment

Thank you for your letter dated August 15, 2013. The United States fully supports the mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, and the Special Rapporteur on the independence of judges and lawyers. We appreciate the opportunity to respond to this inquiry.

The United States does not comment on cases that are currently in litigation. Accordingly, we cannot speak to the circumstances surrounding Mr. Ali's case while his motion to vacate the sentence is pending before the United States federal district court. However, we would like to direct your attention to the decision of the United States Court of Appeals for the Fourth Circuit, which upheld the admissibility of evidence alleged to have resulted from torture after finding Mr. Ali's claims lacked credibility, and ultimately upheld Mr. Ali's conviction. The full text of the court's decision is enclosed for your convenience (ref B).

The U.S. government provides the following information in response to your questions regarding the use of prolonged solitary confinement:

The conditions of confinement at the United States Penitentiary, Administrative Maximum Facility (ADX) in Florence, Colorado are described at length in our November 30, 2011 letter responding to an inquiry from Mr. Méndez regarding solitary confinement, as are the opportunities available to inmates for intellectual stimulation and human interaction. The Bureau of Prisons (Bureau or BOP) does not hold inmates in extreme conditions. The Bureau's inmates are not deprived of meaningful human contact, recreation, intellectual or environmental stimulation, or medical or mental health care.

There are approximately 407 inmates currently housed at the ADX, out of the approximately 219,000 offenders in the federal prison system. Of those 407, approximately 36 have Special Administration Measures (SAMs), which place various restrictions on the inmate's conditions of confinement. SAMs may include, but are not limited to, placing an inmate in administrative detention and restricting social visits, mail privileges, phone calls, access to other inmates, and access to the media. The BOP ensures through careful case reviews that the ADX is used only for those offenders who absolutely need the security and controls available only at the ADX.

An inmate is transferred to the ADX pursuant to the recommendation of the Warden at the facility where the individual is currently housed, applying very specific criteria and a rigorous system of approvals which must be obtained before the transfer takes place, including those of the Regional Director for the region where the inmate is housed, and the Chief of the Designation and Sentence Computation Center.

In all cases, a hearing must be held before a decision to transfer to the ADX is made. A Hearing Administrator is designated by the National Disciplinary Hearing Administrator to conduct an in-person hearing with the inmate as to his possible placement in the ADX. The inmate is provided advance notice of the hearing and the actions that form the basis for the recommendation. The inmate is also provided a staff representative to assist him, if he so chooses. The inmate may present documentary evidence and may call witnesses, subject to some restrictions. At the conclusion of the hearing, the Hearing Administrator prepares a written recommendation as to whether ADX placement is warranted. The recommendation is forwarded to the Assistant Director, Correctional Programs, for final review and decision concerning placement. The inmate may appeal the decision of the Assistant Director, Correctional Programs, to the Bureau's General Counsel.

Please refer to our November 30, 2011 letter for detailed descriptions of measures taken to ensure due process protections regarding the imposition of SAMs, access to appropriate procedures to question the reason for and the length of the SAMs, and access to legal counsel and medical assistance. An in-depth explanation of the Step-Down Program can also be found in that letter.

Inmates at the ADX have the same access to the BOP's Administrative Remedy Program as do inmates housed at all other institutions. See 28 C.F.R. Part 542. The first level is informal resolution with prison staff. If the inmate is unable to informally resolve his complaint, he or she may file a formal Request for Administrative Remedy at the institution in which the inmate is incarcerated. If the inmate feels the response is not satisfactory, an appeal may be filed in the Regional Office. If dissatisfied with the Regional Director's response, the inmate may appeal to the Director, National Inmate Appeals, in the Office of the General Counsel in Washington, D.C., by filing a Central Office Administrative Remedy Appeal. The appeal to the Director, National Inmate Appeals, is the final administrative appeal. This program allows inmates to submit a request for administrative remedy for practices or incidents in the prison that affect them personally, including regarding the conditions of their confinement.

Through the Step-Down Program, inmates have the opportunity to improve their conditions of confinement. This program provides inmates with incentives to adhere to the standards of conduct required in a maximum security facility. Inmates who demonstrate good behavior and positive institutional adjustment can advance through four housing units (General Population, Intermediate Unit, Transitional Unit and Pre-Transfer Unit) over a minimum period of 36 months. As inmates advance through the program, they are subject to fewer restrictions and receive greater privileges. Inmates in the Pre-Transfer Unit, for example, consume their meals in a common area with other inmates, receive a minimum of 24.5 hours of out-of-cell recreation per week, and 300 minutes of telephone calls per month. Inmates who successfully complete the Step-Down program may be transferred out of the ADX facility to an appropriate federal penitentiary. As mentioned, more information on the Step-Down Program can be found in our November 30, 2011 letter.

Sincerely,



Keith M. Harper

Ambassador

U.S. Representative to the United Nations

Human Rights Council