

# **EXHIBIT 21**



**U.S. Department of Justice**  
Federal Bureau of Prisons

## PROGRAM STATEMENT

OPI: CPD/CSB  
NUMBER: 5270.10  
DATE: July 29, 2011  
EFFECTIVE DATE: August 1, 2011

# Special Housing Units

/s/

*Approved:* Thomas R. Kane  
Acting Director, Federal Bureau of Prisons

## 1. PURPOSE AND SCOPE

### § 541.20 Purpose.

**This subpart describes the Federal Bureau of Prisons' (Bureau) operation of special housing units (SHU) at Bureau institutions. The Bureau's operation of SHUs is authorized by 18 U.S.C. 4042(a)(2) and (3).**

a. **Program Objectives.** The expected results of this program are:

- A safe and orderly environment will be provided for inmates and staff.
- Living conditions for inmates in disciplinary segregation and administrative detention will meet or exceed applicable standards.
- Accurate and complete records will be maintained on conditions and events in special housing units.

## b. Summary of Changes

*Policy Rescinded*

P5270.08 Inmate Discipline and Special Housing Units (12/4/09)

The former Program Statement **Inmate Discipline and Special Housing Units** is being reissued as two separate Program Statements.

**Federal Regulations from 28 CFR are shown in this type.**

Implementing instructions are shown in this type.

Removes the language requiring staff in a control unit to adhere to the 90-day limit for an inmate's placement in post-disciplinary detention.

Provides guidance for post disciplinary detention in excess of 90 days and every additional 60 days.

## 2. SPECIAL HOUSING UNITS (SHUS)

### § 541.21 Special Housing Units (SHUs).

**Special Housing Units (SHUs) are housing units in Bureau institutions where inmates are securely separated from the general inmate population, and may be housed either alone or with other inmates. Special housing units help ensure the safety, security, and orderly operation of correctional facilities, and protect the public, by providing alternative housing assignments for inmates removed from the general population.**

For inmates with suspected or confirmed contagious diseases, refer to the Program Statements **Intake Screening**, **Infectious Disease Management**, and **Patient Care**, and, when applicable, the Pandemic Influenza Plan.

Alternative segregation housing arrangements outside the Special Housing Unit itself must be proposed by the Warden to the Regional Director, and ultimately approved by the Assistant Director, Correctional Programs Division, before activation. Alternative segregation housing of this type will only be approved as SHU overflow for inmates in administrative detention or disciplinary segregation status. Operation of such alternative segregation housing requires compliance with all Bureau rules, policies, staffing, and post orders for operating Special Housing Units.

## 3. STATUS WHEN PLACED IN THE SHU

### § 541.22 Status when placed in the SHU.

**When placed in the SHU, you are either in administrative detention status or disciplinary segregation status.**

**(a) *Administrative detention status.* Administrative detention status is an administrative status which removes you from the general population when necessary to ensure the safety, security, and orderly operation of correctional facilities, or protect the public. Administrative detention status is non-punitive, and can occur for a variety of reasons.**

The Warden may impose temporarily more restrictive conditions on an inmate (which may be in an area ordinarily set aside for disciplinary segregation and therefore requires the withdrawal of

privileges ordinarily afforded in administrative detention status, until a hearing before the DHO can be held) who:

- Is causing a serious disruption (threatening life, serious bodily harm, or property) in administrative detention;
- Cannot be controlled within the physical confines of administrative detention; and
- Upon advice of qualified health personnel, does not require confinement in the institution hospital if the institution has one for mental or physical treatment, or who would ordinarily be housed in the institution hospital for mental or physical treatment, but who cannot safely be housed there because the hospital does not have a room or cell with adequate security provisions.

Inmate confined under these more restrictive conditions must have their status reviewed and fully documented on a new BP-A0321 every 5 days.

The Warden may delegate this authority no further than to the official in charge of the institution when the move is necessary.

A fully documented report *Special Housing Unit - Temporary Restrictive Housing Order* (BP-A0321) is maintained in the Inmate Central File.

**(b) *Disciplinary segregation status.* Disciplinary segregation status is a punitive status imposed only by a Discipline Hearing Officer (DHO) as a sanction for committing a prohibited act(s).**

#### **4. ADMINISTRATIVE DETENTION STATUS**

##### **§ 541.23 Administrative detention status.**

**You may be placed in administrative detention status for the following reasons:**

**(a) *Pending Classification or Reclassification.* You are a new commitment pending classification or under review for Reclassification.**

This includes newly arrived inmates from the Bus, Airlift, and U.S. Marshals Service.

**(b) *Holdover Status.* You are in holdover status during transfer to a designated institution or other destination.**

**(c) *Removal from general population.* Your presence in the general population poses a threat to life, property, self, staff, other inmates, the public, or to the security or orderly running of the institution and:**



- (1) Investigation.** You are under investigation or awaiting a hearing for possibly violating a Bureau regulation or criminal law;
- (2) Transfer.** You are pending transfer to another institution or location;
- (3) Protection cases.** You requested, or staff determined you need, administrative detention status for your own protection; or
- (4) Post-disciplinary detention.** You are ending confinement in disciplinary segregation status, and your return to the general population would threaten the safety, security, and orderly operation of a correctional facility, or public safety.

If an inmate is terminating confinement in disciplinary segregation and staff determine placement in general population is not prudent, the inmate may be placed in administrative detention status if warranted by the conditions established above. The Segregation Review Official (SRO) advises the inmate of this determination and the reason for the action via an *Administrative Detention Order* (ADO) (BP-A0308). The Warden or shift supervisor can order immediate segregation.

The decision for post-disciplinary detention must be based on a separate review, not solely on the initial hearing before the DHO that resulted in the inmate's placement in disciplinary segregation.

Except for pretrial inmates or inmates in a control unit program, staff ordinarily, within 90 days of an inmate's placement in post-disciplinary detention, must either return the inmate to the general inmate population or request a transfer of the inmate to a more suitable institution using Form EMS-A409 *Request for Transfer/Application of Management Variable*. The Regional Correctional Programs Administrator will be copied on the completed form.

The institution must generate a regional referral for each inmate in post-disciplinary detention in excess of 90 days that includes case-specific information stating why the inmate is not appropriate for return to general population or immediate transfer. The Regional Director must submit a recommendation for post-disciplinary detention in excess of 90 days and every additional 60 days thereafter to the Assistant Director, Correctional Programs Division (CPD) for concurrence. Distribution includes a copy to the GroupWise mailbox BOP-CPD/DHO~. The institution generates an Administrative Detention Order (ADO) that cites the same case-specific information and includes documentation indicating that the SRO has advised the inmate of the basis for the extended stay.

## **5. DISCIPLINARY SEGREGATION STATUS**

### **§ 541.24 Disciplinary segregation status.**

**You may be placed in disciplinary segregation status only by the DHO as a**

**disciplinary sanction.**

## **6. NOTICE RECEIVED WHEN PLACED IN THE SHU**

### **§ 541.25 Notice received when placed in the SHU.**

**You will be notified of the reason(s) you are placed in the SHU as follows:**

The Lieutenant or other correctional supervisor prepares an Administrative Detention Order (ADO). A new ADO is required if an inmate's status in administrative detention changes. Distribution of copies is indicated on the ADO.

**(a) *Administrative detention status.* When placed in administrative detention status, you will receive a copy of the administrative detention order, ordinarily within 24 hours, detailing the reason(s) for your placement. However, when placed in administrative detention status pending classification or while in holdover status, you will not receive an administrative detention order.**

Pending classification refers to newly arrived inmates.

**(b) *Disciplinary segregation status.* When you are to be placed in disciplinary segregation status as a sanction for violating Bureau regulations, you will be informed by the DHO at the end of your discipline hearing.**

## **7. REVIEW OF PLACEMENT IN THE SHU**

### **§ 541.26 Review of placement in the SHU.**

**Your placement in the SHU will be reviewed by the Segregation Review Official (SRO) as follows:**

**(a) *Three day review.* Within three work days of your placement in administrative detention status, not counting the day you were admitted, weekends, and holidays, the SRO will review the supporting records. If you are in disciplinary segregation status, this review will not occur.**

For reviews of Protection Cases see section 9.

**(b) *Seven day reviews.* Within seven continuous calendar days of your placement in either administrative detention or disciplinary segregation status, the SRO will formally review your status at a hearing you can attend. Subsequent reviews of your records will be performed in your absence by the SRO every seven continuous calendar days thereafter.**

**(c) *Thirty day reviews.* After every 30 calendar days of continuous placement in either administrative detention or disciplinary segregation status, the SRO will formally review your status at a hearing you can attend.**

**(d) *Administrative remedy program.* You can submit a formal grievance challenging your placement in the SHU through the Administrative Remedy Program, 28 CFR part 542, subpart B.**

28 CFR Part 542, Subpart B, refers to the Program Statement **Administrative Remedy Program.**

The SRO refers to the individual at each Bureau institution assigned to review the status of each inmate housed in disciplinary segregation and administrative detention. The SRO must conduct the required reviews. The SRO does not have to be a DHO. Ordinarily, the SRO is the Captain (may be delegated to a Lieutenant responsible for supervision of the SHU). This review must include:

- A review of the inmate's records while in the SHU (*Special Housing Unit Record* (BP-A0292)).
- All available memoranda from staff (including psychology staff).
- All available investigatory memoranda.
- The SRO completes a *Special Housing Review* form (BP-A0295) after review of the *Special Housing Unit Record* and other relevant documentation. Maintain permanent logs.

## **8. PROTECTION CASE – PLACEMENT IN ADMINISTRATIVE DETENTION STATUS**

### **§ 541.27 Protection case – placement in Administrative Detention status.**

**You may be placed in administrative detention status as a protection case in the following circumstances.**

**(a) *Victim of inmate assault or threats.* You were the victim of an inmate assault, or are being threatened by other inmates, including threats of harm if you do not act in a certain way, for example, threats of harm unless you engage in sexual activity.**

**(b) *Inmate informant.* Your safety is threatened because you provided, or are perceived as having provided, information to staff or law enforcement authorities regarding other inmates or persons in the community.**

**(c) *Inmate refusal to enter general population.* You refuse to enter the general population because of alleged pressures or threats from unidentified inmates, or**



for no expressed reason.

**(d) Staff concern.** Based on evidence, staff believe your safety may be seriously jeopardized by placement in the general population.

#### **9. PROTECTION CASE – REVIEW OF PLACEMENT IN THE SHU**

##### **§ 541.28 Protection case – review of placement in the SHU.**

**(a) Staff investigation.** Whenever you are placed in the SHU as a protection case, whether requested by you or staff, an investigation will occur to verify the reasons for your placement.

**(b) Hearing.** You will receive a hearing according to the procedural requirements of § 541.26(b) within seven calendar days of your placement. Additionally, if you feel at any time your placement in the SHU as a protection case is unnecessary, you may request a hearing under this section.

**(c) Periodic review.** If you remain in administrative detention status following such a hearing, you will be periodically reviewed as an ordinary administrative detention case under § 541.26.

When an inmate is placed in administrative detention for protection, the Warden or designee (ordinarily the Captain), must review the placement within two work days of the placement to determine if continued protective custody is necessary. This review includes documents that led to the inmate being placed in protective custody status and any other documents pertinent to the inmate's protection.

#### **10. STAFF VERIFICATION OF NEED FOR PROTECTION**

##### **§ 541.29 Staff verification of need for protection.**

If a staff investigation verifies your need for placement in the SHU as a protection case, you may remain in the SHU or be transferred to another institution where your status as a protection case may not be necessary, at the Warden's discretion.

#### **11. LACK OF VERIFICATION OF NEED FOR PROTECTION**

##### **§ 541.30 Lack of verification of need for protection.**

If a staff investigation fails to verify your need for placement in the SHU as a protection case, you will be instructed to return to the general population. If you refuse to return to the general population under these circumstances, you may be

**subject to disciplinary action.**

Inmates refusing placement in general population should be maintained in Administrative Detention status and, if appropriate, initiate disciplinary action.

**12. CONDITIONS OF CONFINEMENT IN THE SHU**

**§ 541.31 Conditions of confinement in the SHU.**

**Your living conditions in the SHU will meet or exceed standards for healthy and humane treatment, including, but not limited to, the following specific conditions:**

**(a) *Environment.* Your living quarters will be well-ventilated, adequately lighted, appropriately heated, and maintained in a sanitary condition.**

**(b) *Cell Occupancy.* Your living quarters will ordinarily house only the amount of occupants for which it is designed. The Warden, however, may authorize more occupants so long as adequate standards can be maintained.**

**(c) *Clothing.* You will receive adequate institution clothing, including footwear, while housed in the SHU. You will be provided necessary opportunities to exchange clothing and/or have it washed.**

**(d) *Bedding.* You will receive a mattress, blankets, a pillow, and linens for sleeping. You will receive necessary opportunities to exchange linens.**

If the institution issues the combination mattress with a pillow incorporated, a separate pillow will not be issued. Staff may remove an inmate's mattress during non-sleeping daytime hours as a "loss of privilege" sanction imposed by the UDC/DHO. Removal of an inmate's mattress is otherwise prohibited, absent life or safety concerns as specifically documented and authorized by the Warden, or his or her designee.

**(e) *Food.* You will receive nutritionally adequate meals.**

Refer to the Program Statement Food Service Manual for standards and guidelines for feeding inmates in Special Housing Units.

**(f) *Personal hygiene.* You will have access to a wash basin and toilet. You will receive personal items necessary to maintain an acceptable level of personal hygiene, for example, toilet tissue, soap, toothbrush and cleanser, shaving utensils, etc. You will ordinarily have an opportunity to shower and shave at least three times per week. You will have access to hair care services as necessary.**

**(g) *Exercise.* You will receive the opportunity to exercise outside your individual**

**quarters at least five hours per week, ordinarily on different days in one-hour periods. You can be denied these exercise periods for a week at a time by order of the Warden if it is determined that your use of exercise privileges threatens safety, security, and orderly operation of a correctional facility, or public safety.**

If weather and resources permit, the inmate shall receive outdoor exercise periods. "Week" means one calendar week.

Restriction or denial of exercise is not used as punishment. The Warden or Acting Warden may not delegate the authority to restrict or deny exercise. Exercise periods are only restricted or denied when the inmate's activities pose a threat to the safety, security and orderly operation of a correctional facility, or health conditions of the unit.

The appropriate staff member recommends recreation restrictions to a supervisor who then makes the recommendation to the Warden in writing. The recommending staff member describes briefly the reason for recommending a restriction and its proposed extent. The Warden reviews the recommendation and approves, modifies, or denies the restriction. If the Warden approves a restriction, it must be based on the conclusion that the inmate's actions pose a threat to the safety, security, and orderly operation of a correctional facility or health conditions of the unit.

**(h) *Personal property.* In either status, your amount of personal property may be limited for reasons of fire safety or sanitation.**

**(1) In administrative detention status you are ordinarily allowed a reasonable amount of personal property and reasonable access to the commissary.**

**(2) In disciplinary segregation status your personal property will be impounded, with the exception of limited reading/writing materials, and religious articles. Also, your commissary privileges may be limited.**

(3) Personal property ordinarily allowed in administrative detention (if not otherwise a threat to institution security) includes:

- Bible, Koran, or other scriptures (1)
- Books, paperback (5)
- Eyeglasses, prescription (2)
- Legal material (see policy on inmate legal activities)
- Magazine (3)
- Mail (10)
- Newspaper (1)
- Personal hygiene items (1 of each type) (no dental floss or razors\*)
- Photo album (25 photos)
- Authorized religious medals/headgear (e.g., kufi)



- Shoes, shower (1)
- Shoes, other (1)
- Snack foods without aluminum foil wrappers (5 individual packs)
- Soft drinks, powdered (1 container)
- Stationery/stamps (20 each)
- Wedding band (1)
- Radio with ear plugs (1)
- Watch (1)

\*Razors are controlled by SHU staff. Only disposable razors are used.

The Warden may modify the quantity and type of personal property allowed. Personal property may be limited or withheld for reasons of security, fire safety, or housekeeping.

Unauthorized use of any authorized item may result in the restriction of the item. If there are numerous misuses of an authorized item, the Warden may determine that the item will not be issued in the SHU.

**Reading Material.** You will receive a reasonable amount of non-legal reading material, not to exceed five books per inmate at any one time, on a circulating basis. Staff shall provide the inmate the opportunity to possess religious scriptures of the inmate's faith.

**(i) Correspondence.** You will receive correspondence privileges according to part 540, subpart B.

Part 540, Subpart B, refers to the Program Statement **Correspondence**.

**(j) Telephone.** You will receive telephone privileges according to part 540, subpart I.

Part 540, Subpart I, refers to the Program Statement **Inmate Telephone Regulations**.

If the inmate has not been restricted from telephone use as the result of a specific disciplinary sanction, he/she is allowed to make one telephone call per month. Meaning, the inmate should receive a phone call within the first 30 calendar days of placement in the Special Housing Unit and within every 30 calendar days thereafter.

**(k) Visiting.** You will receive visiting privileges according to part 540, subpart D.

Part 540, Subpart D, refers to the Program Statement **Visiting Regulations**.

**(l) Legal activities.** You will receive an opportunity to perform personal legal activities according to part 543, subpart B.

Part 543, Subpart B, refers to the Program Statement **Inmate Legal Activities**.

**(m) Staff monitoring.** You will be monitored by staff assigned to the SHU, including program and unit team staff.

Program staff, including unit staff, arrange to visit inmates in a SHU within a reasonable time after receiving the inmate's request.

In addition to direct supervision by the unit officer, qualified health personnel and one or more responsible officers the Warden designates (ordinarily the Institution Duty Officer) visit each segregated inmate daily, including weekends and holidays. A Lieutenant must visit the SHU during each shift to ensure all procedures are followed.

Duress buttons, if present, will be utilized only for emergency and/or life threatening situations, to include health related issues. The use of the duress button for anything other than an emergency and/or life threatening situation is subject to disciplinary action.

**(n) Programming activities.** In administrative detention status, you will have access to programming activities to the extent safety, security, orderly operation of a correctional facility, or public safety are not jeopardized. In disciplinary segregation status, your participation in programming activities, e.g., educational programs, may be suspended.

**(o) Administrative Remedy Program.** You can submit a formal grievance challenging any aspect of your confinement in the SHU through the Administrative Remedy Program, 28 CFR part 542, subpart B.

28 CFR Part 542, Subpart B, refers to the Program Statement **Administrative Remedy Program**.

### 13. MEDICAL AND MENTAL HEALTH CARE IN THE SHU

#### § 541.32 Medical and mental health care in the SHU.

**(a) Medical care.** A health services staff member will visit you daily to provide necessary medical care. Emergency medical care is always available.

While in a SHU, inmates may continue taking their prescribed medications.

**(b) Mental health care.** After every 30 calendar days of continuous placement in either administrative detention or disciplinary segregation status, mental health staff will examine you, including a personal interview. Emergency mental health care is always available.

Staff conduct a psychiatric or psychological assessment, including a personal interview, when administrative detention continues beyond 30 days. The assessment, submitted to the SRO in a written report with a copy to the inmate's central file, addresses:

- The inmate's adjustment to surroundings.
- The threat the inmate poses to self, staff, and other inmates.

Staff conduct a similar psychiatric or psychological assessment and report at 30 day intervals should detention continue for an extended period.

#### 14. RELEASE FROM THE SHU

##### § 541.33 Release from the SHU.

**(a) *Administrative detention status.* You will be released from administrative detention status when the reasons for your placement no longer exist.**

**(b) *Disciplinary segregation status.* You will be released from disciplinary segregation status after satisfying the sanction imposed by the DHO. The SRO may release you earlier if it is determined you no longer require disciplinary segregation status.**

The SRO may not increase any previously imposed sanction(s). When considering release from disciplinary segregation, the SRO first consults with the Captain and must notify the DHO of the inmate's release from disciplinary segregation before satisfying the imposed sanction.

#### 15. AGENCY'S ACA ACCREDITATION PROVISIONS

##### *ACA Standards*

- 4<sup>th</sup> Edition Standards for Adult Correctional Institutions: 4-4133, 4-4235, 4-4249, 4-4250, 4-4251, 4-4252, 4-4253, 4-4254, 4-4255, 4-4256, 4-4258, 4-4260, 4-4261, 4-4262, 4-4263, 4-4264, 4-4265, 4-4266, 4-4267, 4-4268, 4-4269, 4-4270, 4-4271, 4-4272, and 4-4273.
- 4<sup>th</sup> Edition Performance-Based Standards for Adult Local Detention Facilities: 4-ALDF-2A-44, 4-ALDF-2A-45, 4-ALDF-2A-46, 4-ALDF-2A-47, 4-ALDF-2A-48, 4-ALDF-2A-49, 4-ALDF-2A-50, 4-ALDF-2A-51, 4-ALDF-2A-53, 4-ALDF-2A-55, 4-ALDF-2A-56, 4-ALDF-2A-57, 4-ALDF-2A-58, 4-ALDF-2A-59, 4-ALDF-2A-60, 4-ALDF-2A-61, 4-ALDF-2A-62, 4-ALDF-2A-63, 4-ALDF-2A-64, 4-ALDF-2A-65, and 4-ALDF-2A-66.

#### REFERENCES

##### *Program Statements*

- P1315.07 Inmate Legal Activities (11/5/99)  
P1330.16 Administrative Remedy Program (12/31/07)

P5270.10 7/29/2011 **Federal Regulations are shown in this type.** Implementing instructions: this type. 12

P4700.05 Food Service Manual (6/12/2006)  
P5100.08 Inmate Security Designation and Custody Classification (9/12/06)  
P5212.07 Control Unit Programs (2/20/01)  
P5264.08 Inmate Telephone Regulations (1/24/08)  
P5265.14 Correspondence (4/5/11)  
P5267.08 Visiting Regulations (5/11/06)  
P5270.09 Inmate Discipline (7/8/11)  
P6031.01 Patient Care (1/15/05)  
P6340.04 Psychiatric Services (1/15/05)  
P6360.01 Pharmacy Services (1/15/05)

*Records Retention Requirements*

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.

P5270.10 7/29/2011 **Federal Regulations are shown in this type.** Implementing instructions: this type. 13

# **EXHIBIT 22**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

YASSIN MUHIDDIN AREF, <i>et al.</i>	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 10-0539 (RMU)
	)	
ERIC HOLDER, <i>et al.</i>	)	
	)	
Defendants.	)	
	)	

**DEFENDANTS’ OBJECTIONS AND RESPONSES  
TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES**

In accordance with Federal Rule of Civil Procedure 33, Defendants, by and through her undersigned counsel, hereby respond to Plaintiffs’ First Set of Interrogatories:

**GENERAL STATEMENT AND OBJECTIONS**

1. Defendants object to these interrogatories because certain of the information called for by the interrogatories is subject to the requirements of the Privacy Act of 1974, 5 U.S.C. § 552a.
  
2. Defendants object to the interrogatories to the extent they request information that is not reasonably calculated to lead to the discovery of admissible evidence.
  
3. To the extent that Defendants answer these interrogatories, Defendants do not concede that the information requested is relevant to this action. Defendants expressly reserve the right to object to further discovery on the subject matter of any of these interrogatories and the introduction into evidence of any answer or portion thereof.



4. Defendants object to these interrogatories to the extent that they seek information protected from disclosure by the attorney-client privilege, the work product doctrine, deliberative process, law enforcement privilege, or any other applicable privilege or immunity recognized under statute or applicable case law.

5. Defendants object to each interrogatory to the extent that it seeks information from any individual or entity other than Defendants, or to the extent it seeks information that is publicly available, and/or that is equally or more readily available to Plaintiffs.

6. Defendants object to these interrogatories to the extent that they seek to impose obligations beyond those specified under the Federal Rules of Civil Procedure.

7. Defendants object to these interrogatories to the extent they call for information that is not in the custody, control or possession of the Defendants.

8. Defendants object to providing information about Avon Twitty. This information is not relevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37.

9. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, *see* Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from the Defendants.

10. Defendants object to providing information about non-Plaintiff inmates because such information is irrelevant to the remaining issues in the case. In its March 30, 2011 Order and Memorandum and Opinion, the Court dismissed all but two issues in the case. Given the Court's order, discovery must focus on these two surviving issues: (1) Plaintiff McGowan's and Jones' retaliation claims, alleging designation to the CMU in retaliation for First Amendment

protected speech and advocacy while in prison; and (2) Plaintiffs' procedural due process claims, alleging designation to and retention within the CMU without constitutionally adequate process. Information about non-Plaintiff inmates is irrelevant to both of these claims. *See* 3/31/11 Mem. Op. (Dkt. No. 36).

11. The interrogatories request certain sensitive information potentially implicating institutional security and law enforcement techniques and procedures that should not be disclosed prior to entry of a suitable protective order. In addition, by regulation, the BOP typically will not provide information about an inmate, without his or her authorization, to other inmates because doing so may pose a threat to the safety of the inmates, BOP personnel and/or members of the community. *See* Program Statement 1351.05, *Release of Information* (9/19/02) at 4-5. Defendants will work with Plaintiffs' counsel to craft a suitable protective order to address these concerns.

12. Defendants object to providing information about restrictions imposed on inmates for disciplinary reasons because this is not relevant to whether Plaintiffs' designation to a CMU implicates a liberty interest. *See* Mem. Op. (ECF No. 37) at 23 (citing *Hatch v. District of Columbia*, 184 F.3d 846, 856 (D.C. Cir. 1999) (to determine whether prison restriction implicates a liberty interest, restriction must be compared to the "most restrictive conditions that prison officials, exercising their administrative authority, routinely impose on inmates serving similar sentences") (emphasis added)).

13. Each of the foregoing General Objections is incorporated by reference into each and every specific response set forth below. Notwithstanding the specific responses to any interrogatory, Defendants do not waive any of these General Objections.

**RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

**INTERROGATORY NO. 1**

Identify the names and titles of all individuals who are/were responsible for setting policy at the CMU, including the purpose of the CMU, the criteria and guidelines for designating inmates to the CMU, policies for transfer to or from the CMU, inmate reviews while housed in the CMU, and communications restrictions at the CMU. Indicate who had final decision-making authority with respect to each of these decisions.

**Objections to Interrogatory No. 1:**

Defendants object that this interrogatory is vague and compound. In addition, Defendants object that information about the identity of individuals responsible for setting policy at the CMU is not relevant to the remaining issues in dispute: namely, whether Plaintiffs' designation to a CMU violated their rights to procedural due process, and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36.

**Response to Interrogatory No. 1:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

The Correctional Programs Division was the BOP entity responsible for establishing the CMUs. Former Assistant BOP Director, John Vanyur, was head of the Correctional Programs Division at the time the CMUs were established and therefore was arguably "responsible" for setting CMU policy. However, Harley Lappin, former BOP Director, had ultimate decision-making authority with respect to the setting of policy at the CMUs.

**INTERROGATORY NO. 2**

Identify how many inmates were placed in administrative segregation at USP Marion and FCI Terre Haute between 1/1/2007 and 6/30/2011.

**Objections to Interrogatory No. 2:**

Defendants object because this interrogatory seeks information that is not relevant to the remaining issues in dispute in this case.

**Response to Interrogatory No. 2:**

Subject to this objection and the general objections listed at the beginning of this document, there were 7,542 inmates placed in administrative segregation at USP Marion and FCI Terre Haute between 1/1/2007 and 6/30/2011. *See Roster of Inmates Housed in Marion USP and Terre Haute FCI With Administrative Detention At Both Facilities (1/1/07 to 6/30/11), BOPCMU 001875-002657.*

**INTERROGATORY NO. 3**

Identify how many inmates, out of those identified in response to interrogatory #2, above, had access to less than 300 minutes of telephone time per month at any time during their stay in administrative segregation, and indicate how many minutes a month each of these inmates received, the duration of this restriction, the process that accompanied the restriction, and all reasons for the restriction.

**Objections to Interrogatory No. 3:**

Defendants object that this interrogatory is compound. In addition, Defendants object that the term “telephone time” is ambiguous because it is not clear whether the interrogatory refers exclusively to social calls or is also intended to encompass legal calls. Defendants interpret the request to apply only to social calls. Defendants further object that providing the requested information would be unduly burdensome and calls for information that is not relevant to the remaining issues in dispute.

**Response to Interrogatory No. 3:**

Subject to these objections and the general objections listed at the beginning of this document, Defendant answers as follows:

All inmates placed in administrative detention at FCI Terre Haute and USP Marion receive one fifteen-minute social call every month (providing the inmate has not been restricted from telephone use as the result of a specific disciplinary sanction). They may receive additional time for a verifiable emergency. Without providing an exhaustive list, this limitation on telephone time for inmates confined to administrative detention is due to limitations on staff resources.

The following process applies to an inmate's transfer to administrative detention. When placed in administrative detention status, an inmate will receive a copy of the administrative detention order, ordinarily within 24 hours, detailing the reason(s) for the inmate's placement. However, when an inmate is placed in administrative status pending classification or while in holdover status, the inmate does not receive an administrative detention order. An inmate's placement in administrative detention is reviewed by the Segregation Review Official ("SRO") as follows. Within three work days of the inmate's placement in administrative detention status, not counting the day admitted, weekends, and holidays, the SRO will review the supporting records. Within seven continuous calendar days of an inmate's placement in administrative detention, the SRO will formally review the inmate's status at a hearing the inmate can attend. Subsequent reviews of the inmate's records will be performed in the inmate's absence every seven continuous calendar days thereafter. After 30 calendar days of continuous placement in administrative detention, the SRO will formally review the inmate's status at a hearing the inmate can attend. An inmate may submit a formal grievance challenging his or her placement

in administrative detention through the Administrative Remedy Program, 28 CFR part 542, subpart B. Pursuant to Federal Rule of Civil Procedure 33(d), and in further answer to this interrogatory, Defendants respectfully refer Plaintiffs to Program Statement 5270.10, Special Housing Units (August 1, 2011) at 5-8.

**INTERROGATORY NO. 4**

Identify how many inmates, out of those identified in response to interrogatory #2 above, had their access to social visits restricted during their stay in administrative segregation, and indicate how many hours of social visits each was allowed per month, the duration of this restriction, the process that accompanied the restriction, and all reasons for the restriction.

**Objections to Interrogatory No. 4:**

Defendants object that this interrogatory is compound. Defendants further object that providing the requested information would be unduly burdensome and calls for information that is not relevant to the remaining issues in dispute.

**Response to Interrogatory No. 4:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

Inmates in administrative detention at FCI Terre Haute, like inmates in general population at FCI Terre Haute, are routinely allotted seven visits during a calendar month, and there is no set limit on the duration of the visit provided it occurs within visiting hours and visiting conditions permit (e.g., the visiting room is not overcrowded or disruptive).

Furthermore, inmates in administrative detention at FCI Terre Haute in protective custody (PC) status are limited to four hours of non-contact visits a month conducted in two hour periods on Fridays on a first come first serve basis. Additionally, at times, inmates in administrative detention at FCI Terre Haute may have greater restrictions applied.



USP Terre Haute inmates that are temporarily housed in the FCI Terre Haute SHU have separate visiting procedures, as follows: The visit will be non-contact and must be approved in advance by the Unit Team and Deputy Captain. Inmates will provide unit team staff with visitor information in a timely manner and should expect at least two weeks for processing. These approved visits will ordinarily be conducted on Fridays unless otherwise approved. Non-contact SHU visitation will occur during normal visiting days for the FCI, weekends and holidays. The Deputy Captain can authorize pre-approved exceptions for week day visits. Unit Team staff will be available to escort the visitors and supervise the visit. SHU visitors will not be processed after 1:00 p.m. SHU visits will be limited to a duration of two (2) hours. No more than two (2) visitors will be allowed to visit each inmate. Inmates will be limited to four (4) hours of visiting a month. Due to the limited space available for non-contact visiting, consideration must be made to afford other inmates the privileges of visitation. Therefore, visiting privileges could be restricted to one visit a month. A written copy of the approved visit will normally be provided to the Lieutenant's Office, Control Center, Front Entrance, FCI Tower #1 and SHU staff.

Inmates designated to administrative segregation at USP Marion are allowed a minimum of four hours of social visiting time per month and may receive more upon request. Without providing an exhaustive list, the limitation on visiting time for inmates confined to administrative detention is due to limitations on staff resources.

The following process applies to an inmate's transfer to administrative detention. When placed in administrative detention status, an inmate will receive a copy of the administrative detention order, ordinarily within 24 hours, detailing the reason(s) for the inmate's placement. However, when an inmate is placed in administrative status pending classification or while in holdover status, the inmate does not receive an administrative detention order. An inmate's

placement in administrative detention is reviewed by the Segregation Review Official (“SRO”) as follows. Within three work days of the inmate’s placement in administrative detention status, not counting the day admitted, weekends, and holidays, the SRO will review the supporting records. Within seven continuous calendar days of an inmate’s placement in administrative detention, the SRO will formally review the inmate’s status at a hearing the inmate can attend. Subsequent reviews of the inmate’s records will be performed in the inmate’s absence every seven continuous calendar days thereafter. After 30 calendar days of continuous placement in administrative detention, the SRO will formally review the inmate’s status at a hearing the inmate can attend. An inmate may submit a formal grievance challenging his or her placement in administrative detention through the Administrative Remedy Program, 28 CFR part 542, subpart B. Pursuant to Federal Rule of Civil Procedure 33(d), and in further answer to this interrogatory, Defendants respectfully refer Plaintiffs to Program Statement 5270.10, Special Housing Units (August 1, 2011) at 5-8.

**INTERROGATORY NO. 5**

Identify how many inmates, out of those identified in response to interrogatory #2 above, have not been allowed social contact visits during their stay in administrative segregation, and indicate the duration of this restriction, the process that accompanied the restriction, and all reasons for the restriction.

**Objections to Interrogatory No. 5:**

Defendants object that this interrogatory is compound. Defendants further object that providing the requested information would be unduly burdensome and calls for information that is not relevant to the remaining issues in dispute.

**Response to Interrogatory No. 5:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

Unless there are special security concerns that warrant limitation on contact visits, inmates in administrative detention at FCI Terre Haute have access to social contact visits. Inmates in administrative segregation at USP Marion do not receive social contact visits and such visits are conducted using video conferencing. Without providing an exhaustive list of the reasons for this restriction, video visits reduce the risks to institutional security posed by contact visits and reduce burdens on limited staff resources.

The following process applies to an inmate's transfer to administrative detention. When placed in administrative detention status, an inmate will receive a copy of the administrative detention order, ordinarily within 24 hours, detailing the reason(s) for the inmate's placement. However, when an inmate is placed in administrative status pending classification or while in holdover status, the inmate does not receive an administrative detention order. An inmate's placement in administrative detention is reviewed by the Segregation Review Official ("SRO") as follows. Within three work days of the inmate's placement in administrative detention status, not counting the day admitted, weekends, and holidays, the SRO will review the supporting records. Within seven continuous calendar days of an inmate's placement in administrative detention, the SRO will formally review the inmate's status at a hearing the inmate can attend. Subsequent reviews of the inmate's records will be performed in the inmate's absence every seven continuous calendar days thereafter. After 30 calendar days of continuous placement in administrative detention, the SRO will formally review the inmate's status at a hearing the inmate can attend. An inmate may submit a formal grievance challenging his or her placement

in administrative detention through the Administrative Remedy Program, 28 CFR part 542, subpart B. Pursuant to Federal Rule of Civil Procedure 33(d), and in further answer to this interrogatory, Defendants respectfully refer Plaintiffs to Program Statement 5270.10, Special Housing Units (August 1, 2011) at 5-8.

**INTERROGATORY NO. 6**

Identify the name and location of every BOP facility, unit, or sub-unit in which all inmates within the facility, unit, or sub-unit are banned from social contact visits or allowed less than 300 minutes of telephone use a month, as well as the number of inmates in each such facility, unit, or sub-unit, and their crime(s) of conviction, security levels, and sentences.

**Objections to Interrogatory No. 6:**

Defendants object that this interrogatory is compound. Defendants further object that providing the requested information would be unduly burdensome and calls for information that is not relevant to the remaining issues in dispute.

**Response to Interrogatory No. 6:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

As a matter of national policy, inmates assigned to administrative detention in a Special Housing Unit (“SHU”) receive, at minimum, one fifteen-minute social call every 30 days. Program Statement 5270.10, Part 12(j), Special Housing Units (August 1, 2011) (providing that if inmate has not been restricted from telephone use as the result of a specific disciplinary sanction, inmate is allowed one telephone call every 30 days) at 10; Program Statement, 5264.07, Telephone Regulations for Inmates, Part 10(d)(1) at 14 (explaining that the Warden will establish the maximum length of telephone calls, ordinarily 15 minutes). Additional time may be authorized upon request at the discretion of the Warden or his designee for reasons including, but

not limited to, a verifiable emergency such as a death in the family. Pursuant to Federal Rule of Civil Procedure 33(d), and in further answer to this interrogatory, Defendants respectfully refer Plaintiffs to institution supplements for telephone regulations from every BOP institution that has their own institution supplement. For the institutions that do not have their own institution supplement, or for those institution supplements that do not mention telephone calls related to inmates in administration detention status, the inmates receive telephone privileges per national Bureau of Prisons' policy.

Special Housing Units and Special Management Units are not considered general population units. The following units/subunits are banned from contact social visiting.

In the case of the Special Housing Unit ("SHU") at FCC Allenwood (USP), social contact visits are not allowed. Inmates are allowed nine points of visits per month, each two hours in duration. The points used for each visit depend upon which day of the week the visit occurs. Each weekend visit requires two points and each weekday visit requires one point. No points are assessed for visits on federal holidays. 5267.08 B, Visiting Regulations, pages 2-3 and 6-7.

At the SHU at USP Atlanta, inmates receive a maximum of five non-contact visits per month, one hour each in duration, via video monitor. Administrative Detention inmates may be given an opportunity to visit in an open environment if determined appropriate by the Captain. 5267.08E, Visiting Regulations, pages 2-3.

At USP Atwater, SHU inmates are allowed non-contact visits of up to one hour per visit. Each SHU inmate will be allotted 32 visiting points on the first day of each month. SHU inmates are placed in ambulatory restraints for the duration of the visit. ATW 5267.08B, Visiting Regulations, page 4-5.

At the SHU at FCC Beaumont, non-contact video visiting is allowed for all inmates in the unit with the exception of inmates on visiting restriction, ordinarily for up to one hour. Low security inmates are allowed up to 15 points of visits per month, medium security inmates are allowed up to 12 points of visits per month, and USP inmates may have up to 8 points of visits per month. The points used for each visit depend upon which day of the week the visit occurs. Each weekend or holiday visit requires two points and each weekday visit requires one point. BMX 5267.08A, Visiting Regulations, pages 5, 16.

At the SHU at FCC Big Sandy, visits are held in non-contact visiting rooms. Inmates receive up to ten two-hour visits per month. BSY 5267.08, Visiting Regulations, page 8.

At the SHU at MCC Chicago, visits are conducted via live video monitoring and limited to two hours per visit for inmates in administrative detention and one hour per visit for inmates in disciplinary segregation. Each inmate is allowed 4 hours of visits per month. Inmates housed in SHU in long term administrative detention status may request a contact visit with visitors on their approved visiting list every 90 days, which is reviewed by the Captain/SHU Lieutenant and forwarded to the Warden for final approval. CCC 5267.08, Visiting Regulations, page 4-5.

At the SHU at FCI El Reno, all visits for inmates that are housed in the SHU will be conducted using the video visiting system for a duration of up to one hour. Inmates are allotted 32 visiting points at the beginning of each month. The points used for each visit depend upon which day of the week the visit occurs. Each weekend or holiday visit requires two points and each weekday visit requires one point. No more than 20 points may be used for weekend/holiday visiting. ERE-5267.08, Visiting Regulations, pages 4-5 and 18-19.

At ADX Florence all visits are non-contact. This includes the Control Unit (5 visits per month, maximum 7 hours per visit), Special Housing Unit (conducted via video visiting, 2 hour



period at a time), General population unit (5 visits per month, maximum 7 hours per visit), Special Security Unit, and Intermediate Phase of the Step-Down Program; and Transition Phase of the Step-Down Program Units. FLM 5212.07H, Control Unit Programs, pages 5-7; FLM 5321.06J(1), General Population and Step Down Units; FLM 5267.08B; Visiting Procedures

At Florence FPC, SHU visits are conducted via video visiting, up to five visits per inmate per month, ordinarily for up to two hours per visit. FLM 5267.08B, Visiting Procedures, page 5.

At USP Florence, all social visits for inmates in the Pre Transfer Unit (D/B) are non-contact.

At FCI Florence, visits for SHU inmates are non-contact and may last up to two hours in duration. FLM 5267.08c, Visiting Regulations, page 1.

At the SMU at FCC Florence, inmates are limited to 5 non-contact visits per month. FLM 5217.01A, Special Management Unit, page 7.

SHU visits at FCI Fort Worth are conducted in the non-contact visiting room. Inmate visits are conducted on a point system. Inmates receive nine points per month. One point is deducted for each weekday visit and two points are deducted for weekend or holiday visits. Each visit may last up to one hour in duration. FLM 5267.08 B, Visiting Regulations, page 4, 8.

At the SHU at USP Hazelton, inmate visits are conducted in the non-contact visiting room. Inmates receive twelve visiting points per month. The points used for each visit depend upon which day of the week the visit occurs. Each weekend or holiday visit requires two points and each Friday visit requires one point. Each visit may last up to one hour in duration, with the exception of inmates at the SFF who are housed in SHU, who are allowed contact visits. FLM 5267.08, USP Hazelton Visiting Regulations, pages 2-3, 10.

At the SHU at FDC Honolulu, inmates are allowed to visit in non-contact visiting rooms for a duration of up to one hour. 5267.08E, Visiting Regulations, page 2-3.

At USP Leavenworth, SHU inmate visits are conducted via closed circuit television. Inmates are given 24 visiting hour points per month. The points used for each visit depend upon which day of the week the visit occurs. Each hour of weekend or holiday visiting requires two points and each hour of visiting on Monday or Friday requires one point. Visits are allowed a maximum duration of two hours. 5267.08, Visiting Regulations, page 1-3.

At the SHU at USP Marion, inmates are allowed up to four hours of video visits per month. Inmates in Administrative Detention are allowed two hour visits and inmates in disciplinary segregation receive one hour visits. 5267.08C, Visiting Regulations, pages 8-9.

At the CMU at USP Marion, visits are monitored and conducted in the main visiting room using non-contact facilities. Inmates are allowed up to eight hours of visiting time per month, with no single visit allowed to last more than four hours. All visits must be pre-scheduled by the CMU team. MAR-5321.07, Operation and Security of the Communication Management Unit (I Unit), pages 4-5.

In the SHU at USP McCreary, inmates are restricted to non-contact visits. 5267.08B, Visiting Regulations, page 3.

In the SHU at FCI McDowell, inmate visits are non-contact. Inmates are allotted six visiting points per month and must submit visitor requests according to unit guidelines. The points used for each visit depend upon which day of the week the visit occurs. Each hour of weekend or holiday visiting requires two points and each hour of weekday visiting requires one point. 5267.08A, Inmate Visitation, page 12.

In the SHU at MCC New York (Unit 10), inmates are restricted to non-contact visits, unless otherwise determined by the Warden. 5267.07F, Visiting, page 6.

In the Special Management Unit (“SMU”) at FCC Oakdale, visits are allowed at the discretion of the unit team and with concurrence of the S.I.S. Department. Inmates are advised to submit visit requests at least seven days prior to the proposed visit. Visits are limited to two hours in duration. OAK 5217.01B, Special Management Units, page 4.

In the SHU at FCI Oxford, visits are conducted via live video monitors. Inmates are allotted 35 visiting points per month. One point is assessed for each hour. Visits may last up to one hour each in duration. Unit managers may approve additional visiting hours. 5267.08B, Visiting Regulations, page 3, 5-6.

In the SHU at FCC Pollock, inmates are allowed up to eight visiting points per month. The points used for each visit depend upon which day of the week the visit occurs. Each hour of weekend or holiday visiting requires two points and each hour of weekday visiting requires one point. Visits are conducted by video. Inmates in administrative detention are allowed visits of up to four hours in duration, and inmates in disciplinary segregation are allowed visits of up to two hours in duration. 5267.08 B, Inmate Visiting, page 7.

At the SHU at MCC San Diego, inmates are allowed up to twelve visiting points per month. The points used for each visit depend upon which day of the week the visit occurs. Each hour of weekend or holiday visiting requires two points and each hour of weekday visiting requires one point. Visits may last up to one hour. 5267.08C, Visiting Regulations, pages 2, 9.

At the SHU at FDC SeaTac, inmates are allowed non-contact visits via video monitors, up to one hour in duration. 5267.08D, Inmate Visiting, pages 9-11.

At the SHU at FCI Seagoville, visits are conducted in the non-contact visiting room. Inmates are allowed up to 25 visiting points per month. The points used for each visit depend upon which day of the week the visit occurs. Each hour of weekend or holiday visiting requires two points and each hour of weekday visiting requires one point. Visits may last up to two hours. 5267.08c, Visiting Regulations, pages 2, 5.

At the SMU at Talladega, visits are held via video visiting. TDG 5217.01B, Special Management Units, page 3-4.

At the CMU at FCC Terre Haute, inmates are allowed monitored, non-contact visits of up to four hours in duration, with a total of four hours of visiting per calendar month. THX 5321.07, Operation and Security of the Communication Management Unit (D Unit FCI Terre Haute), page 3.

In the Special Confinement Unit (“SCU”), at FCC Terre Haute, which is used to house inmates who have received a capital sentence, inmates are restricted to non-contact visits. All visits must be pre-approved and scheduled. Each inmate is permitted four, three hour visits per month, THX-5566.05H, Operation and Security of the Special Confinement Unit, page 11. The SCU is not a general population unit.

At the USP-SHU at FCC Terre Haute, visits must be approved in advance by the Unit Team and Captain. Seven visits per month are allowed. Visits may take place on weekends or holidays only. SHU visits will be limited to a duration of two (2) hours and are non-contact. The inmates will remain in handcuffs and leg irons during the visit. THX-5267.08D, Visiting Regulations, pages 3-4.

At the SHU at FCC Tucson, inmates are restricted to non-contact visits, no more than one day per week, with visits lasting a maximum of two hours each. TCX 5267.08E, Inmate Visiting Regulations, pages 7-8.

At the SHU at FCC Victorville (USP), inmates are allowed up to thirty two points of non-contact visits per month, with visits lasting no more than two hours in duration. One hour of visiting equals one point on weekdays, weekends and holidays. VIX 5267.08f, Visiting Regulations, page 2, 8.

At the SHU at FCC Victorville (FCI-I), inmates are allowed up to forty points of non-contact visits per month, with visits lasting no more than two hours in duration. One hour of visiting equals one point on weekdays, weekends and holidays. VIX 5267.08f, Visiting Regulations, page 2-3, 9.

At the SHU at FPC Yankton, inmates are allowed up to four non-contact visits per month, up to one hour each in duration. Inmates are required to provide at least five days' notice before receiving a visitor. YAN 5267.8C, Visiting Regulations, page 3.

In the Special Confinement Unit at FCC Terre Haute, SCU inmates will ordinarily be allowed five (5) social calls per week. Additional telephone privileges (up to a total of two (2) additional social telephone calls per week) may be permitted for inmates in Phase II or III only. SCU inmate telephone calls are ordinarily limited to 15 minutes. Once a call has been made and completed for any portion of the maximum call length, there will be a 30 minute block until that inmate is able to make another call. Inmates must submit an Inmate Request to Staff Member directly to the Unit #1 Officer requesting an approximate date and time of the call. If the requested date and time is not available, the Unit #1 Officer will issue a response suggesting

another date and time. THX-5566.05H, Operation and Security of the Special Confinement Unit, page 9-11.

High Security Program inmates in the SCU must submit a request twenty-four hours in advance of their proposed phone call. Step One inmates receive four calls per month, Step Two inmates receive five calls per month, and Step Three inmates receive six phone calls per month. THX-5270.02, Operation of the high Security Program Within the Special Confinement Unit, page 3-4.

At the CMU at FCC Terre Haute, telephone communication, with the exception of properly placed, unmonitored legal calls, are limited to two fifteen minute calls per week and must be scheduled Monday through Friday, excluding federal holidays between the hours of 8:00 a.m. and 2:30 p.m. THX 5321.07, Operation and Security of the Communication Management Unit (D Unit FCI Terre Haute), page 3.

At the SMU at FCI Talladega, Level One inmates are allowed 30 minutes of telephone calls per month, Level Two inmates are allowed 60 minutes per month, and Level Three inmates are allowed 90 minutes per month. Calls and visits are scheduled via an Inmate Request to Staff presented to the unit manager. TDG 5217.01B, Special Management Units, page 4; TDG 5264.08A Telephone Regulations for Inmates, page 1. At the SMU at FCI Talladega, social contact visits are not allowed.

In the SMU at FCC Oakdale, Phase One inmates are allowed two telephone calls each month after the staff-assisted phone call, pending clear conduct and no telephone restrictions. Phase Two inmates are allowed three telephone calls each month, pending clear conduct and no telephone restrictions. Phase Three inmates are allowed four telephone calls each month, pending clear conduct and no telephone restrictions. Phase Four inmates are allowed five telephone calls

each month. This privilege will also be contingent upon the inmate's continued clear conduct and no record of current telephone restriction. OAK 5217.01B, Special Management Units, page 5; 5264.08C, Inmate Telephone Regulations, page 4.

In the SMU at USP Lewisburg, Level 1 inmates are permitted two 15 minute calls per month, Level two inmates are permitted four calls per month, and Level Three and Level Four inmates may access the phones more frequently. 5217.01, Special Management Units, page 3-4.

At ADMAX Florence, Control Unit inmates are allowed one fifteen minute telephone call per validation period and one fifteen minute call every 90 days while in Disciplinary Segregation status. Special Housing Unit inmates are allowed one fifteen minute telephone call every 90 days while in Disciplinary Segregation status and one fifteen minute call per validation period while in Administrative Detention Status. General Population Unit inmates are allowed two fifteen minute calls per validation period. Inmates in the J Unit of the Step Down Program receive three fifteen minute calls per validation period and inmates in the K Unit of the Step Down Program receive four fifteen minute calls per validation period. Special Security Unit inmates receive two fifteen minute calls per validation period and one fifteen minute call every ninety days while in Disciplinary Segregation Status. FLM-5264.08B, Telephone Regulations for Inmates Page 3-4,

At CMU USP Marion, telephone communication is limited to two fifteen minute calls per week. Calls must be scheduled Monday through Friday, except federal holidays, between 8:00 am and 8:00 pm local time. On Sundays and federal holiday, telephone calls may be scheduled between 8:00 am and 2:30 pm, local time. MAR-5321.07, Operation and Security of the Communication Management Unit (I Unit), page 4.

### **INTERROGATORY NO. 7**

For every facility, unit or sub-unit identified in response to interrogatory #6, indicate whether the unit is categorized by the BOP as a “general population” unit, how many minutes of telephone calls and visits are available, how and when such calls and visits can be scheduled, and whether social contact visitation is allowed.

#### **Objections to Interrogatory No. 7:**

Defendants object that this interrogatory is compound. Defendants further object that providing the requested information would be unduly burdensome and calls for information that is not relevant to the remaining issues in dispute.

#### **Response to Interrogatory No. 7:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants refer Plaintiffs to their answer to Interrogatory No. 6.

### **INTERROGATORY NO. 8**

For every facility, unit or sub-unit identified in response to interrogatory #6, indicate the average (median and mean) length of time inmates were held at each facility, unit, or sub-unit between 1/1/2007 and 6/30/2011 and the shortest and longest durations any inmate was held in such facility, unit or sub-unit over that same period of time.

#### **Objections to Interrogatory No. 8:**

Defendants object that this interrogatory is compound. In addition, Defendants object that this request is unduly burdensome and calls for information that is not relevant to the remaining issues in dispute.

### **INTERROGATORY NO. 9**

For every facility, unit or sub-unit identified in response to interrogatory #6, indicate the average (median and mean) length of time each inmate was held in such facility, unit, or sub-unit between 1/1/2007 and 6/30/2011 before a review of his/her placement, and the shortest and



longest durations any inmate was held in such facility, unit, or sub-unit before a review of their placement, during that same period of time.

**Objections to Interrogatory No. 9:**

Defendants object that this interrogatory is compound. In addition, Defendants object that this request is unduly burdensome and calls for information that is not relevant to the remaining issues in dispute.

**Response to Interrogatory No. 9:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

The following process applies to an inmate's transfer to administrative detention. When placed in administrative detention status, an inmate will receive a copy of the administrative detention order, ordinarily within 24 hours, detailing the reason(s) for the inmate's placement. However, when an inmate is placed in administrative status pending classification or while in holdover status, the inmate does not receive an administrative detention order. An inmate's placement in administrative detention is reviewed by the Segregation Review Official ("SRO") as follows. Within three work days of the inmate's placement in administrative detention status, not counting the day admitted, weekends, and holidays, the SRO will review the supporting records. Within seven continuous calendar days of an inmate's placement in administrative detention, the SRO will formally review the inmate's status at a hearing the inmate can attend. Subsequent reviews of the inmate's records will be performed in the inmate's absence every seven continuous calendar days thereafter. After 30 calendar days of continuous placement in administrative detention, the SRO will formally review the inmate's status at a hearing the

inmate can attend. Pursuant to Federal Rule of Civil Procedure 33(d), and in further answer to this interrogatory, Defendants respectfully refer Plaintiffs to Program Statement 5270.10, Special Housing Units (August 1, 2011) at 5-8.

**INTERROGATORY NO. 10**

From 1/1/2007 to 6/30/2011, identify the average (both mean and median) length of time that inmates placed in administrative segregation spent in administrative segregation at USP Marion and FCI Terre Haute.

**Objections to Interrogatory No. 10:**

Defendants object that this interrogatory is compound and calls for information that is not relevant to the remaining issues in dispute.

**Response to Interrogatory No. 10:**

Subject to this objection and the general objections listed at the beginning of this document, pursuant to Federal Rule of Civil Procedure 33(d), and in answer to this interrogatory, Defendants respectfully refer Plaintiffs to Roster of Inmates Housed in Marion USP and Terre Haute FCI With Administrative Detention At Both Facilities (1/1/07 to 6/30/11), BOPCMU 001875-002657.

**INTERROGATORY NO. 11**

What are the shortest and longest time durations that any inmate spent in administrative segregation at USP Marion and at FCI Terre Haute between 1/1/2007 and 6/30/2011?

**Objections to Interrogatory No. 11:**

Defendants object that this interrogatory is compound and calls for information that is not relevant to the remaining issues in dispute.

**Response to Interrogatory No. 11:**

Subject to this objection and the general objections listed at the beginning of this document, pursuant to Federal Rule of Civil Procedure 33(d), and in answer to this interrogatory, Defendants refer Plaintiffs to Roster of Inmates Housed in Marion USP and Terre Haute FCI With Administrative Detention At Both Facilities (1/1/07 to 6/30/11), BOPCMU 001875-002657.

**INTERROGATORY NO. 12**

Between 1/1/2007 and 6/30/2011, what was the average (both mean and median) length of time of confinement in administrative segregation at USP Marion and FCI Terre Haute before inmates received a review of such placement, and what were the shortest and longest time durations during that time period that any inmate was held in administrative segregation before review of that placement?

**Objections to Interrogatory No. 12:**

Defendants object that this interrogatory is compound. Defendants further object that providing the requested information would be unduly burdensome and calls for information that is not relevant to the remaining issues in dispute.

**Response to Interrogatory No. 12:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

When placed in administrative detention status, an inmate will receive a copy of the administrative detention order, ordinarily within 24 hours, detailing the reason(s) for the inmate's placement. However, when an inmate is placed in administrative status pending classification or while in holdover status, the inmate does not receive an administrative detention order. An

inmate's placement in administrative detention is reviewed by the Segregation Review Official ("SRO") as follows. Within three work days of the inmate's placement in administrative detention status, not counting the day admitted, weekends, and holidays, the SRO will review the supporting records. Within seven continuous calendar days of an inmate's placement in administrative detention, the SRO will formally review the inmate's status at a hearing the inmate can attend. Subsequent reviews of the inmate's records will be performed in the inmate's absence every seven continuous calendar days thereafter. After 30 calendar days of continuous placement in administrative detention, the SRO will formally review the inmate's status at a hearing the inmate can attend. Pursuant to Federal Rule of Civil Procedure 33(d), and in further answer to this interrogatory, Defendants respectfully refer Plaintiffs to Program Statement 5270.10, Special Housing Units (August 1, 2011) at 5-8.

**INTERROGATORY NO. 13**

How many BOP inmates are currently serving sentences of incarceration within a six-month range of Yassin Aref, Daniel McGowan, Royal Jones, and Kifah Jayyousi?

**Objections to Interrogatory No. 13:**

Defendants object to this request on grounds of undue burden and because it is irrelevant to the remaining issues in the case.

**INTERROGATORY NO. 14**

Of the inmates enumerated in response to interrogatory #13 above:

- a. How many are currently allowed less than 300 minutes of telephone use a month? For how long has each been under this restriction and how long will it last?
- b. How many are currently banned from having social contact visits? For how long has each been under this restriction and how long will it last?

- c. How many are currently allowed eight hours or less of social visits per month? For how long has each been under this restriction and how long will it last?

**Objections to Interrogatory No. 14:**

Defendants object that this interrogatory is compound. In addition, Defendants object to this request on grounds of undue burden and because it is irrelevant to the remaining issues in the case.

**INTERROGATORY NO. 15**

For those inmates identified in response to interrogatory #14 subparts (a) through (c), how many have had their communication restricted as the result of disciplinary proceedings?

**Objections to Interrogatory No. 15:**

Defendants object to this request on grounds of undue burden and because it is irrelevant to the remaining issues in the case.

**INTERROGATORY NO. 16**

Identify the name and position of each and every individual who referred, nominated and/or suggested that Yassin Aref, Daniel McGowan, Royal Jones, Avon Twitty, and Kifah Jayyousi be designated or re-designated to the CMU.

**Objections to Interrogatory No. 16:**

Defendants object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that this interrogatory is unduly burdensome and calls for irrelevant information. Defendants further object that the terms “referred, nominated and/or suggested” are vague and ambiguous. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No.

37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 17**

Identify the name and position of every individual who considered, approved and/or reviewed the designation or re-designation of Yassin Aref, Daniel McGowan, Royal Jones, Avon Twitty, and Kifah Jayyousi each to the CMU.

**Objections to Interrogatory No. 17:**

Defendants object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that this interrogatory is unduly burdensome and calls for irrelevant information. Defendants also object that the terms “considered, approved and/or reviewed” are vague and ambiguous. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request

regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 18**

Indicate how many CMU inmates have been transferred out of the CMU as the result of a program review and explain the basis for each of those decisions.

**Objections to Interrogatory No. 18:**

Defendants object that this interrogatory is compound. In addition, Defendants object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants further object because the information sought about the basis for any decision to release a non-Plaintiff inmate from the CMU is not relevant to the two remaining claims in this case: namely whether Plaintiffs' designation to a CMU violated their rights to procedural due process and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36.

Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**Response to Interrogatory No. 18:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

As of October 12, 2011, twenty-four inmates have been released from the CMUs as a result of a program completion following a program review.

**INTERROGATORY NO. 19**

Indicate how many CMU inmates have been transferred out of the CMU as a result of an administrative grievance, and explain the basis for each of those decisions.

**Objections to Interrogatory No. 19:**

Defendants object that this interrogatory is compound. In addition, Defendants object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants further object that information sought about the basis for any decision to release a non-Plaintiff inmate from the CMU is not relevant to the two remaining claims in this case: namely whether Plaintiffs' designation to a CMU violated their rights to procedural due process and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36.

Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the



document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**Response to Interrogatory No. 19:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows: none.

**INTERROGATORY NO. 20**

Identify how many CMU inmates have been recommended for transfer out of the CMU by any BOP employee but denied transfer.

**Objections to Interrogatory No. 20:**

Defendants object because the word “recommended” is vague.

**Response to Interrogatory No. 20:**

Subject to this objection and the general objections listed at the beginning of this document, Defendants answer as follows:

As of July 29, 2011, there were eleven CMU inmates who have been recommended for transfer out of the CMU but whose transfer was denied.

**INTERROGATORY NO. 21**

For all inmates identified in response to interrogatory #20,

- a. Explain the basis for each decision to retain the inmate in the CMU;
- b. Identify the name and position of every person involved in or responsible for the decision to retain the inmate in the CMU.

**Objections to Interrogatory No. 21:**

Defendants object that this interrogatory is compound, vague and unduly burdensome. In addition, Defendants object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants further object that information sought about the basis for any decision to retain a non-Plaintiff inmate in the CMU is not relevant to the two remaining claims in this case: namely whether Plaintiffs' designation to a CMU violated their rights to procedural due process and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**Response to Interrogatory No. 21:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

Defendants state that, following a program review, the Unit Team staff will forward their recommendation to the Warden regarding whether the inmate should remain within the CMU or be redesignated out of the CMU. With the concurrence of the Warden, a Unit Team staff

recommendation will be forwarded to BOP's Counter Terrorism Unit ("CTU") for review of the individual inmate's case. The CTU will then forward the final recommendation to the Regional Director, North Central Region, for further review and consideration. The Regional Director has final authority to approve an inmate's re-designation from the CMU.

**INTERROGATORY NO. 22**

Identify the names of all other agencies with which information about CMU inmates is shared both during and after detention in the CMU.

**Objections to Interrogatory No. 22:**

Defendants object that this interrogatory is compound, unduly burdensome and calls for irrelevant information. In addition, Defendants object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege.

**Response to Interrogatory No. 22:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

Information derived by the BOP regarding any inmate, to include CMU inmates, is shared with appropriate local, state, tribal, federal and military law enforcement and intelligence agencies when and where applicable, appropriate and necessary.

**INTERROGATORY NO. 23**

Can CMU designation result in an inmate's inclusion on a national security list, including but not limited to the US Government's consolidated terrorist watch list, the terrorist screening center database, the no-fly list, or the Violent Gang and Terrorist Organization File?

**Objections to Interrogatory No. 23:**

Defendants object that this interrogatory is compound and because the requested information is not relevant to the two remaining claims in this case: namely, whether Plaintiffs' designation to a CMU violated their rights to procedural due process, and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36. Defendants also object because the term "national security list" is vague and ambiguous. Moreover, Defendants object that any information called for by this interrogatory would be privileged, including but not limited to the law enforcement privilege, and that information responsive to this request includes Sensitive Security Information (*See* 49 U.S.C. § 114(s) and 49 C.F.R § 1520.5(2)(3)). Lastly, Defendants object to this interrogatory because this information is not maintained by BOP.

**INTERROGATORY NO. 24**

Identify each and every national security list on which Yassin Aref, Daniel McGowan, Royal Jones, Kifah Jayyousi, and/or Avon Twitty appears.

**Objections to Interrogatory No. 24:**

Defendants object that this interrogatory is compound and because the requested information is not relevant to the two remaining claims in this case: namely, whether Plaintiffs' designation to a CMU violated their rights to procedural due process, and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36. Defendants also object because the term "national security list" is vague and ambiguous. In addition, pursuant to the government's "*Glomar*" policy, government officials do not confirm or deny whether an individual is on a "national security list" because such information may reveal that an individual is of investigative interest to the U.S.

Government, in addition to law enforcement sensitive sources and methods. Moreover, Defendants object that any information called for by this interrogatory would be privileged, including but not limited to the law enforcement privilege, and that information responsive to this request includes Sensitive Security Information (*See* 49 U.S.C. § 114(s) and 49 C.F.R § 1520.5(2)(3)). Lastly, Defendants object to this interrogatory because this information is not maintained by BOP.

**INTERROGATORY NO. 25**

What is the average cost, including personnel costs, of a hearing associated with:

- a. designation to disciplinary segregation,
- b. designation to a control unit,
- c. designation to the SMU,
- d. designation to ADX.

**Objections to Interrogatory No. 25:**

Defendants object that this interrogatory is compound and seeks irrelevant information.

**Response to Interrogatory No. 25:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

Pursuant to Federal Rule of Civil Procedure 33(d), and in answer to this interrogatory, Defendants refer Plaintiffs to the following documents: BOPCMU 001817 (Cost Analysis for ADX and ADX-CU); BOPCMU 001818 (Cost Analysis for DS Placement); BOPCMU 001819 (Cost Analysis for SMU Referral).

**INTERROGATORY NO. 26**

Identify the names and positions of all BOP personnel who investigated or contributed to the factual statements contained in each of Yassin Aref, Daniel McGowan, Royal Jones, Avon Twitty and Kifah Jayyousi's Notices of Transfer to the CMU.

**Objections to Interrogatory No. 26:**

Defendants object because this interrogatory is compound and unduly burdensome. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 27**

Identify and describe any and all information supporting the reasons for Plaintiffs' CMU designation, as set forth in Plaintiffs' Notices of Transfer, including when, where, with whom, and how Plaintiffs engaged in the conduct alleged.

**Objections to Interrogatory No. 27:**

Defendants object that this interrogatory is compound and unduly burdensome. Defendants also object to this interrogatory to the extent it calls for information protected by the

law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 28**

Identify and describe any and all information suggesting Daniel McGowan, Royal Jones, Yassin Aref, Avon Twitty or Kifah Jayyousi pose or posed a danger to prison security and/or have attempted to communicate with anyone to further illegal activity.

**Objections to Interrogatory No. 28:**

Defendants object that this interrogatory is compound, vague, overbroad and unduly burdensome. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw

as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 29**

Identify and describe every communications-related prison rule violation committed by Avon Twitty, Royal Jones, Daniel McGowan, Yassin Aref and Kifah Jayyousi while in BOP custody.

**Objections to Interrogatory No. 29:**

Defendants object that this interrogatory is compound, vague, overbroad, unduly burdensome and seeks irrelevant information. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.



**INTERROGATORY NO. 30**

Identify and describe every other rule violation committed by Avon Twitty, Royal Jones, Daniel McGowan, Yassin Aref and Kifah Jayyousi while in BOP custody.

**Objections to Interrogatory No. 30:**

Defendants object that this interrogatory is compound, vague, unduly burdensome and calls for irrelevant information. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 31**

Identify and describe all information provided to Avon Twitty, Royal Jones, Daniel McGowan, Yassin Aref and Kifah Jayyousi by BOP employees regarding the reason(s) for their designation(s) to or from the CMU.

**Objections to Interrogatory No. 31:**

Defendants object that this interrogatory is compound, overbroad, and unduly burdensome. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 32**

Identify and describe all information provided to Avon Twitty, Royal Jones, Daniel McGowan, Yassin Aref and Kifah Jayyousi by BOP employees regarding ways in which they could/can change their behavior or otherwise earn re-designation from the CMU.

**Objections to Interrogatory No. 32:**

Defendants object that this interrogatory is compound, overbroad and unduly burdensome. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object

that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 33**

How many current BOP inmates are eligible for nomination to the CMU by virtue of fitting into one or more of the BOP's criteria for CMU designation as identified in the BOP's 2007 Statue of the Bureau Report (*see* Complaint at ¶ 33)?

**Objections to Interrogatory No. 33:**

Defendants object that it would be unduly burdensome to attempt to identify every prisoner who might theoretically be eligible for a CMU designation. Defendants further object that the information sought is not relevant because the decision to designate an inmate to the CMU is an individualized determination based on the particular security risks posed by an individual inmate.

**Response to Interrogatory No. 33:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

Designation to a CMU may be warranted, on a case-by-case basis, for inmates (1) who are convicted of or associated with terrorism; (2) who pose a risk of coordinating illegal activities by communicating with persons in the community; (3) who have attempted or have a propensity to contact the victims of their crimes; (4) who have committed prohibited acts involving the misuse or abuse of approved communications methods; and (5) where there is other evidence that the inmate's unmonitored communication with the public poses a threat to the security and orderly operation of Bureau facilities or the protection of the community.

**INTERROGATORY No. 34**

Do Avon Twitty, Royal Jones, Daniel McGowan, Yassin Aref and Kifah Jayyousi fit any of the five categories listed in paragraph 33 of the Complaint? If so, identify each category that each Plaintiff fits within and identify each category that was the basis for their designation to the CMU.

**Objections to Interrogatory No. 34:**

Defendants object that this interrogatory is compound. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants

receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 35**

What is the earliest time after transfer to the CMU that the BOP (including any BOP employees or agents) first considers whether a CMU inmate should be designated out of the CMU?

**Objections to Interrogatory No. 33:**

Defendants object because this interrogatory is vague.

**Response to Interrogatory No. 35:**

Subject to this objection and the general objections listed at the beginning of this document, BOP will consider whether to designate an inmate out of the CMU in response to an administrative remedy. Therefore, the timing of when BOP first considers whether an inmate should be designated out of the CMU may depend upon when an inmate files an administrative grievance. Otherwise, the first time an inmate is considered for release from the CMU is at their Initial Classification, which occurs within 28 calendar days of the inmate's arrival at the CMU. They are then considered for release at every subsequent program review.

**INTERROGATORY NO. 36**

Identify and describe any and all ways that CMU inmates may learn of or challenge the underlying facts that led to their CMU designation.

**Objections to Interrogatory No. 36:**

Defendants object because the request to describe “any and all ways” is overbroad and unduly burdensome.

**Response to Interrogatory No. 36:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

Plaintiffs may learn of the facts that lead to their CMU designation by consulting the Notice of Transfer they receive upon being designated to a CMU; by consulting the inmate's Presentence Investigation Report and Judgment & Conviction; by filing a FOIA request or Request for Administrative Remedy; and by raising questions during a program review with their Unit Team. Inmates may raise objections to the facts underlying their CMU designation by means of filing a Request for Administrative Remedy or during a program review with their Unit Team.

**INTERROGATORY NO. 37**

Identify by title all federal employees and agents eligible to nominate, refer, or suggest that an inmate be designated to the CMU.

**Objections to Interrogatory No. 37:**

Defendants object that the terms "eligible" and "nominate" and "refer" are vague and ambiguous. Defendants also object because this interrogatory is overbroad and unduly burdensome. Defendants further object that the information sought by this interrogatory is not relevant to the two remaining claims in this case: namely, whether Plaintiffs' designation to a CMU violated their rights to procedural due process, and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36.

**Response to Interrogatory No. 37:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

BOP will consider all credible information that would warrant designating an inmate to a CMU from all sources.

**INTERROGATORY NO. 38**

Identify and describe any and all security risks posed by allowing Yassin Aref, Daniel McGowan, Royal Jones, and Kifah Jayyousi to engage in contact visitation with approved visitors.

**Objections to Interrogatory No. 38:**

Defendants object that this interrogatory is compound, overbroad, unduly burdensome and calls for irrelevant information. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 39**

Identify and describe any and all security risks posed by allowing Yassin Aref, Daniel McGowan, Royal Jones, and Kifah Jayyousi 300 minutes of telephone access a month with approved call recipients.

**Objections to Interrogatory No. 39:**

Defendants object that this interrogatory is compound, overbroad, unduly burdensome and calls for irrelevant information. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 40**

When transferred from USP Marion, why wasn't Royal Jones designated to a California facility, or some other facility closer to his family in California and Montana?

**Objections to Interrogatory No. 40:**

Defendants object to providing information about Royal Jones because Jones's counsel has filed a motion to withdraw, citing a conflict of interest between Jones and the other plaintiffs,



*see* Motion to Withdraw as Attorney, ECF No. 52, and because Jones himself has not sought discovery in this case from Defendants. Defendants also object to this interrogatory because it calls for information subject to the Privacy Act and to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege.

**INTERROGATORY NO. 41**

Provide the following information for every current and former CMU inmate:

- a. Crime[s] of conviction;
- b. Sentence;
- c. Duration of stay in the CMU;
- d. If transferred out of the CMU, each facility to which he was subsequently transferred; and
- e. A list of each of each inmate's disciplinary offenses.

**Objections to Interrogatory No. 41:**

Defendants object that this interrogatory is compound and unduly burdensome. In addition, Defendants object to this request because information regarding non-Plaintiff inmates is not relevant to the remaining issues in dispute: namely, whether Plaintiffs' designation to a CMU violated their rights to procedural due process, and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36. Defendants also object to this interrogatory to the extent it calls for information protected by the law enforcement privilege or any other applicable privilege. Defendants object that information about Avon Twitty is irrelevant because the Court has held that his claims are moot. *See* 3/30/11 Order, ECF No. 36; 3/30/11 Mem. Op. at 16-17, ECF No. 37. Defendants object to providing information about Royal Jones because his counsel has filed a motion to withdraw, citing a

conflict of interest between Jones and the other plaintiffs, Motion to Withdraw as Attorney, ECF No. 52, and because Jones has not himself sought discovery from Defendants. Subject to these objections and the general objections listed at the beginning of the document, Defendants will provide non-privileged information in response to this request regarding the Plaintiffs once Defendants receive a suitable signed Privacy Act waiver from the Plaintiffs and the Court enters a suitable protective order.

**INTERROGATORY NO. 42**

Does the BOP have a policy regarding retention of information about noninmates' First Amendment protected activities? If so, what is that policy?

**Objections to Interrogatory No. 42:**

Defendants object because the information sought is not relevant to the remaining issues in dispute: namely, whether Plaintiffs' designation to a CMU violated their rights to procedural due process, and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36. Defendants also object because this interrogatory is vague and ambiguous and Defendants state that they cannot provide an answer to this interrogatory because of its vagueness.

**INTERROGATORY NO. 43**

Please indicate whether any BOP staff is instructed to engage inmates designated to the CMU in conversation regarding the inmates' views or beliefs about political, social, religious, or environmental matters, if so, please describe the source and purpose of this policy.

**Objections to Interrogatory No. 43:**

Defendants object to this interrogatory on the grounds that it is vague and ambiguous. Defendants further object that the information sought is not relevant to the remaining issues in dispute: namely, whether Plaintiffs' designation to a CMU violated their rights to procedural due process, and whether McGowan and Jones were sent to the CMU in retaliation for First Amendment protected activities. *See* 3/30/11 Order, ECF No. 36.

**Response to Interrogatory No. 43:**

Subject to these objections and the general objections listed at the beginning of this document, Defendants answer as follows:

While conversations such as those referenced in this interrogatory may occur from time to time, there is no BOP policy requiring that staff, as a routine matter, engage with CMU inmates in the conversations referenced in this interrogatory.

**AS TO THE OBJECTIONS:**

Dated: November 21, 2011

Respectfully submitted,

TONY WEST  
Assistant Attorney General

RONALD C. MACHEN JR.  
United States Attorney

VINCENT M. GARVEY  
Deputy Branch Director  
Federal Programs Branch

\_\_\_\_\_/s/\_\_\_\_\_  
NICHOLAS CARTIER  
(D.C. Bar # 495850)  
NATHAN M. SWINTON

(NY Bar # 802649)  
Trial Attorneys  
U.S. Department of Justice  
Civil Division/Federal Programs  
Mail: P.O. Box 883  
Washington, D.C. 20044  
Street: 20 Massachusetts Ave., N.W.  
Washington, DC 20001  
Ph: (202) 616-8351  
Fax: (202) 616-8470  
Email: [nicholas.cartier@usdoj.gov](mailto:nicholas.cartier@usdoj.gov)

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I certify that on November 21, 2011, a true and correct copy of Defendants' Objections and Responses to Plaintiffs' First Set of Interrogatories and Document Requests was sent via email to counsel for Plaintiffs, Rachel Meeropol and Alexis Agathocleous, Center for Constitutional Rights, 666 Broadway, 7<sup>th</sup> Floor, New York, NY 10012 at [AAgathocleous@ccrjustice.org](mailto:AAgathocleous@ccrjustice.org) and [RachelM@ccrjustice.org](mailto:RachelM@ccrjustice.org).

Dated: November 21, 2011

\_\_\_\_\_/s/\_\_\_\_\_  
NICHOLAS CARTIER  
*Attorney for Defendants*

# **EXHIBIT 23**



**U.S. Department of Justice  
Federal Bureau of Prisons**

**FCC TERRE HAUTE**

*Office of the Warden*

*Terre Haute Indiana 47802*

February 21, 2013

**MEMORANDUM FOR STANLEY LOVETT, DEPUTY CAPTAIN**

**FROM:**

*[Signature]*  
**L. Oliver, Warden**

**SUBJECT:**

**SPECIAL HOUSING UNIT (SHU) INMATE VISITING PROCEDURES**

Special Housing Unit visiting procedures - FCI: The following changes in procedures will be utilized regarding social visiting for inmates housed in the Special Housing Unit (SHU) at the FCI.

Inmates will not be permitted social visiting in the institution visiting room.

The following changes in procedures will be utilized regarding non-contact visiting for inmates housed in the SHU. The visits must be approved in advance by the Deputy Captain. Inmates will provide the SHU Lieutenant with visitor information in a timely manner and expect at least two weeks for processing. Beginning March 1, 2013; visits will be conducted on Saturday, Sunday and Monday. The compound officer will be available to escort the visitors to the Special Housing Unit. SHU staff will supervise the visit.

Institution Supplement THX-5267.08D will be updated to reflect these changes.

Institution Supplement  
OPI Correctional Services  
Number THX-5267.08D  
Date May 31, 2012

**DEPOSITION EXHIBIT**

19  
**DATE:** 7/18/13 **CLS**