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UNITED STATES OF AMERICA

THE HIGH SECURITY UNIT, LEXINGTON FEDERAL PRISON, KENTUCKY

AUGUST 1988

SUMMARY

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A High Security Unit (HSU), built by the Federal Bureau of Prisons (FBP) at Lexington Federal Prison, Kentucky, came into operation in September 1986. Initially three women convicted of politically motivated offences were held there; later they were joined by four other female prisoners. During 1987 the HSU became the focus of growing public attention and criticism.

The women prisoners could associate together at certain times of day but were isolated from all other inmates and kept in a specially controlled environment which included 24-hour camera surveillance. They were not allowed to participate in the training, rehabilitative or recreation programs provided for other long-term prisoners; correspondence and visits were restricted; and they were strip-searched whenever they left the outdoor exercise yard, which they were permitted to use only under constant supervision.

Amnesty International wrote in May 1987 to the FBP about these conditions. It referred to a 1979 study in which it had found that prisoners kept in long-term small-group isolation in the Federal Republic of Germany suffered from pathological disorders caused by their conditions of confinement. It noted that the conditions in the Lexington HSU had reportedly already begun to have a detrimental effect on one prisoner, who complained of headaches and loss of powers of concentration. Amnesty International expressed concern that confinement in the HSU was based on general security considerations rather than on the inmates' own behaviour and was apparently indefinite (all the women in the unit were serving very long prison sentences).

The FBP replied in June that the women were treated humanely and that the HSU was designed for inmates who might be subjects of rescue attempts by outside groups. Amnesty International reiterated its concern on 6 October. In a further letter in October the FBP said that some modifications to conditions in the HSU had been made and that a new high security female prison in which there would be more flexible conditions, was under construction in Marianna, Florida.

In June 1988 an Amnesty International observer attended the court hearing of a motion for a preliminary injunction requesting the immediate closure of the HSU. Lawyers for the plaintiffs (three of the seven women

prisoners) challenged regulations which they claimed allowed the transfer to the HSU of prisoners because of their political beliefs or affiliations. They also argued that the conditions in the HSU were causing the women irreparable injury. Amnesty International's observer found the HSU's conditions "deliberately and gratuitously oppressive" and concluded that there was overwhelming evidence that the prisoners had deteriorated physically and psychologically during their custody there. He recommended that the HSU should be closed forthwith, and that conditions in the new Florida unit should not replicate those in the HSU. His report was sent to the Director of the FBP on 14 July 1988.

On 15 July 1988 Federal District Judge Barrington Parker ruled that the FBP had violated the prisoners' First Amendment right to freedom of speech, association and expression because they had been held in the HSU on account of their political beliefs, and ordered them to be transferred into the general prison population. He did not find the general conditions in the HSU to be in breach of the Constitution, but said that the prisoners' treatment "skirted elemental standards of human decency" and warned the FBP to be careful that conditions at the new Florida unit "do not lead to wanton and unnecessary infliction of psychological pain."

Amnesty International considers that the conditions of confinement and the transfer of prisoners to the HSU on the basis of their political beliefs constitute "cruel, inhuman and degrading" treatment in contravention of Article 5 of the Universal Declaration of Human Rights. The prolonged isolation of the prisoners, the humiliating strip-searches and the additional restrictions imposed on them had a detrimental effect on their physical and mental health.

This document describes the developments in the HSU regime and summarizes the Federal District Judge's ruling in July 1988. Appended is Amnesty International's correspondence with the FBP, the latter's replies, and the Amnesty International observer's report of the court hearing in June 1988.

This summarizes a 38-page document, USA: The High Security Unit, Lexington Federal Prison, Kentucky, (AI Index: AMR 51/34/88), issued by Amnesty International in August, 1988. Anyone wanting further details should consult the full document.

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August 1988

USA: THE HIGH SECURITY UNIT
LEXINGTON FEDERAL PRISON, KENTUCKY

1. THE HIGH SECURITY UNIT - SEPTEMBER 1986 TO MAY 1987

The High Security Unit (HSU) at Lexington, Kentucky, opened in September 1986. Situated within, but completely separate from, a larger medium security women's prison, HSU was created for a small number of women prisoners whose security needs could not, in the opinion of the Federal Bureau of Prisons (FBP), be catered for at other federal institutions for women.

The HSU could accommodate 16 women but never held more than seven. Initially it housed only three prisoners: Alejandrina Torres and Susan Rosenberg, who were transferred in October 1986, and Silvia Baraldini who was transferred there in January 1987. These three prisoners had all been convicted of politically motivated criminal offences and were serving prison sentences of between 35 and 58 years. Their past political affiliations included membership of the Black Liberation Army, the Family (a group allegedly committed to violent support of the black revolutionary movement), the Puerto Rican Independence movement, and the 'May 19th Communist Party' (now disbanded).

By May 1987 two more prisoners had been transferred to the Unit: Debra Brown and Sylvia Brown, both of whom were convicted of non-political criminal offences. Debra Brown was under sentence of death in Kentucky. Sylvia Brown was the only one of the women at the HSU with any history of escape. She had reportedly presented a considerable control problem and had escaped four times from lower security prisons prior to her transfer.

During the first year of its operation the conditions of confinement in the Unit were criticized by attorneys representing the prisoners, by the National Prison Project of the American Civil Liberties Union (NPP), and by other prisoner support groups. They reported that the prisoners were being held in isolation from all other inmates in a specially controlled environment in which they were subjected to 24-hour camera surveillance, with logs maintained of all their activities including their conversations and taking showers (the shower area was also under surveillance and there was no shower curtain). Situated in a basement, the cells in the Unit received virtually no natural light or ventilation; the prisoners were housed in cells on the darker side of the building and heavy security screens over the cell windows prevented them from seeing outside. The floors, ceilings and, initially, all walls, were painted in white gloss and artificial lighting was required at all times.

It was reported that the women were systematically strip-searched whenever they left or entered their cells, and that other restrictions which did not apply to other prisoners were also imposed on them. Visiting rights, correspondence and reading matter were severely limited; the women were not permitted to participate in the work, education, rehabilitation or other programs afforded to general population prisoners. Although Torres, Rosenberg and Baraldini were highly-educated, the only work said to be available to them was folding army shorts for six and a half hours a day in a small, poorly ventilated and windowless room, formerly a utility closet.

Amnesty International, which opposes the torture or other cruel, inhuman or degrading treatment or punishment of all prisoners without reservation, first wrote to the FBP on 20 May 1987 [letter appended] to express concern about the conditions in the HSU. It referred to its 1979 study of the small-group isolation of politically-motivated prisoners in the Federal Republic of Germany (FRG). This had found that many of these prisoners suffered from pathological disorders caused by their conditions of confinement, including emotional disturbances, impairment of concentration and ability to think, loss of reality and neuroses. Physical effects included disturbances to the autonomic nervous system, low blood pressure and circulation problems, headaches, dizziness, digestive problems and sleep disturbances. Amnesty International noted that the FRG prisoners were held in conditions similar in some respects to those prevailing at Lexington's HSU: isolation from general population prisoners; all-white surfaces; absence of natural light and continuous "unobtrusive" observation by guards and video cameras. Amnesty International noted that the conditions in the HSU appeared already to have had a detrimental effect on Alejandrina Torres, who complained of headaches and a loss of powers of concentration.

In its letter, Amnesty International queried with the FBP the need to house Torres, Rosenberg and Baraldini in such restrictive conditions, given that they had no prison history of escape, violence or indiscipline. Commenting that the needs for security should not conflict with the requirements of humane treatment, Amnesty International urged that the conditions at the HSU be reviewed "with a view to eliminating such aspects that may constitute cruel, inhuman or degrading treatment".

2. THE HIGH SECURITY UNIT - JUNE 1987 TO OCTOBER 1987

Michael Quinlan of the FBP replied to Amnesty International's letter on 12 June 1987 [letter appended]. He denied that the HSU was a control or disciplinary unit, or that sensory deprivation was practised there. He informed Amnesty International that the cell walls were now painted in "soft, earth-tone graphics"; that the Industries Work Area was well-ventilated and had an outside window; and that the prisoners were not subject to any search, including pat-searches, when entering or leaving their cell. [Amnesty International later learned that the prisoners were strip-searched daily on leaving the outside recreation area].

Mr Quinlan stated that "[t]he political affiliation of a prisoner is not a factor which is considered in our classification process and has not been considered in these cases." The prisoners had been transferred to the HSU, he said, because they "may be subject to rescue attempts by outside groups" and that all the [now five] women had been found to meet the

placement criteria.

The National Prison Project of the American Civil Liberties Union (NPP) conducted a tour of inspection of the HSU on 20 July 1987. In August it issued a report in which it criticized "the reasons given for assignment to the unit and the lack of administrative procedures for assignment, the manner in which the unit environment and procedures are manipulated by institutional staff and the failure to provide a meaningful mechanism to move out of the unit." Taken together, these factors "violate notions of fundamental fairness and create severe mental distress for the unit population." The NPP found evidence in the women of psychological deterioration caused by their conditions of confinement, including claustrophobia, anger, depression, hallucinatory symptoms, withdrawal and apathy. Psychomatic symptoms included loss of appetite, marked weight-loss, general physical malaise, visual disturbances, dizziness and heart palpitations.

Concerned at the discrepancies between Mr Quinlan's description of the conditions in the HSU and that given by the NPP, Amnesty International again wrote to the FBP on 6 October 1987 [letter appended]. It stated that it remained concerned that the women in the Unit were being held in small-group isolation of apparently indefinite duration and by other aspects of their confinement which could cause severe mental and physical stress when imposed for a prolonged period. It questioned, in particular, the rationale for transfer to, and removal from, the HSU. It cited the case of one of the women prisoners, whose alleged political association with the Puerto Rican independence movement (the Fuerzas Armadas de Liberacion Nacional - FALN) was cited in the "rationale" given by officials for her transfer to the Unit, with reference to the fact that FALN had engaged in attempts to free prisoners in the past. According to FBP guidelines, transfer out of the Unit would be considered only when "...the original factors which required placement...into the unit no longer apply". Amnesty International drew the following conclusion:

"It would appear, therefore, that confinement to the unit depends not on the prisoners' own behaviour but on the hypothetical risk of what others might do to assist their escape and that, short of their renouncing affiliation to groups deemed to present such a risk, this confinement will be indefinite."

Amnesty International expressed the hope that review procedures would be implemented which would provide a more realistic opportunity for the women to meet conditions required to achieve their removal from the HSU.

In his reply [appended], Michael Quinlan reiterated that prisoners were not assigned to the Unit on the basis of political beliefs or ideology. However, he confirmed that:

"a prisoner's past or present affiliation, association or membership in an organization which has been documented as being involved in acts of violence, attempts to disrupt or overthrow the government of the United States, or whose published ideology includes advocating law violations is a factor considered by our staff in assessing the security needs of any inmate. A prisoner's removal from the HSU is determined by the ongoing professional assessment of our staff regarding the factors which were originally determined to warrant the prisoner's placement

in the unit." [Emphasis added]

Regarding other matters raised by Amnesty International, Mr Quinlan said that strip-searches performed on prisoners leaving the recreation area would in future be conducted on a random rather than a routine basis; visiting permission would no longer be restricted as before to immediate family members only; a shower curtain had been installed for privacy from the surveillance cameras. He described the educational, religious and recreational programs in the HSU as "very adequate" and said the staff provided "expeditious and professional" medical treatment for the prisoners. He also informed Amnesty International that a new high security unit was under construction in Marianna, Florida, and that the new institution would replace the HSU at Lexington.

3. THE HIGH SECURITY UNIT - DEVELOPMENTS IN 1988

On 22 March 1988 the NPP, acting on behalf of three prisoners at the HSU (Silvia Baraldini, Susan Rosenberg and Sylvia Brown), commenced an action against those administratively responsible for the HSU. The motion was for a preliminary injunction to prevent continued use of the unit. The NPP was permitted to bring its case as a matter of urgency. It sought an unusual remedy - immediate closure of the Unit - on the grounds that the plaintiffs were suffering irreparable injury by virtue of their continued detention there. Arguments were heard before Judge Barrington Parker in the Federal District Court, Washington DC, on 2 and 7 June 1988. Amnesty International's observer, Rod Morgan (Director of the Centre for Criminal Justice at the Universities of Bristol and Bath in the UK), observed the hearing on 2 June and interviewed plaintiff Susan Rosenberg.

Amnesty International sent Mr Morgan's report to the FBP on 14 July 1988 [report and accompanying letter appended]. The report confirmed Amnesty International's previously expressed concerns and concluded that conditions in the Unit amounted to cruel, inhuman and degrading treatment, after taking into account "a complex range of features" including allocation procedures, physical conditions and regime. The report found overwhelming evidence that the prisoners in the HSU had deteriorated physically and psychologically during their custody there.

Mr Morgan found that the prisoners not only lacked all contact with other inmates, but were subjected to a range of additional restrictions leading to a regime which he termed "deliberately and gratuitously oppressive." These included the constant use of security chains whenever the prisoners left the unit; repeated strip searching (apparently in excess of security needs); almost total lack of privacy and a claustrophobic lack of sensory stimuli; restrictions on freedom of movement, choice of activities and personal possessions.

Mr Morgan noted that the FBP did not contest that the security assessments for Susan Rosenberg and Silvia Baraldini were based only on evidence available at the time of their convictions, and that nothing in their subsequent behaviour had given cause for disciplinary action or serious concern. Both had been held in general population prisons before their transfer to the HSU without causing any security problems. The FBP could provide no evidence that either prisoner had contact with former revolutionary affiliates that might give rise to fears of escape attempts. Their indefinite confinement in the Unit for "impenetrable" reasons, which

the inmates were unable to influence by their own behaviour, was identified as one of the major causes of stress found in the prisoners.

On 15 July 1988, Judge Parker issued his ruling on the motion. He found that two of the prisoners named in the motion, Susan Rosenberg and Silvia Baraldini, had suffered a violation of their First Amendment right to exercise freedom of speech, association and expression and ordered that they be transferred into the general prison population. He ordered that new criteria be drawn up for the placement of women prisoners in the HSU, and barred the FBP from "considering a prisoner's past political associations or personal political beliefs" in deciding on transfers in Federal prisons. "[C]onsigning anyone to a high security unit for past political associations they will never shed unless forced to renounce them is a dangerous mission for this country's prison system to continue," he said. It is anticipated that Alejandrina Torres, the third prisoner convicted of politically-motivated criminal offences, will also benefit from this ruling which does not affect Sylvia Brown and the other three non-political prisoners.

Judge Parker found the FBP's criteria for placement in the HSU overbroad and vague. It restricted the inmates' political associations and expressions, and "encroaches on constitutionally protected freedoms." "The overbreadth of the HSU criteria is not only real, it is substantial as well, judged in relation to its purpose. The Bureau must achieve its goals of greater prisoner security by means which are less restrictive than the present methods which have an impermissible impact on First Amendment Freedoms."

Having reviewed Baraldini and Rosenberg's prison records, he found that:

"their placement in the HSU cannot be justified without more credible documentation than that found in the Bureau's records...During their years in custody, Baraldini and Rosenberg have never threatened the staff, other inmates, or the security of any correctional institution. The Bureau has failed to identify clearly what it is that causes a belief that the plaintiffs pose a risk of escape..."

He noted that the HSU has had at least a 56 per-cent vacancy rate since it opened; but although "at least a dozen female prisoners" were referred from Pleasanton Prison for possible placement in the Unit, only Silvia Baraldini's transfer was approved; and "because of her political statements and associations, Susan Rosenberg was slated for the Unit long before it opened."

Judge Parker did not find in favour of the plaintiffs' Eighth Amendment claim that the conditions of confinement at the HSU constituted "cruel and unusual punishment". However, he noted that a number of the prisoners' complaints were not denied by the FBP, which claimed to have rectified the problems. This he described as "a sorry response to the complaint and...a shameful reflection on the Bureau's administration." He found that "the Bureau still operates a unit that in many respects, measures below acceptable standards for federal prisons" and its "sluggish response to plaintiffs' requests borders very close to neglect." He concluded:

"...the Court is greatly troubled about the previous conditions within the Unit and the defendants' gross insensitivity and belated response to those conditions. The Unit at best meets the bare Eighth Amendment standards but at times the treatment of plaintiffs has skirted elemental standards of human decency. The exaggerated security, small group isolation, and staff harassment serve to constantly undermine the inmates' morale."

He noted that the FBP was committed to "transferring the mission" of the HSU to the new high security unit at Marianna, Florida, and warned: "be extremely careful that Marianna's conditions and staff behaviour do not lead to wanton and unnecessary infliction of psychological pain in violation of the Eighth Amendment."

A claimed violation of the plaintiffs' Fifth Amendment (due process) rights was dismissed by the judge.

At the time of writing the FBP has not indicated whether or not it will appeal against Judge Parker's ruling (it has 60 days as of the date of the ruling in which to do so). The FBP has not yet rewritten its criteria for the placement of prisoners in the HSU. Prisoners Susan Rosenberg and Silvia Baraldini have been removed from the HSU and are imprisoned in the Metropolitan Correctional Center in New York.

4. APPENDICES

4.1 Amnesty International's letter to Mr Norman Carlson (FBP), 20 May 1987

4.2 Reply from Mr Michael Quinlan, Deputy Director, FBP, 12 June 1987

4.3 Amnesty International's letter to Mr Michael Quinlan, 6 October 1987

4.4 Reply from Mr Michael Quinlan, 23 October 1987

4.5 Amnesty International's letter to Mr Michael Quinlan, 14 July 1988

4.6 Report for Amnesty International on HSU by Rod Morgan, June 1988



amnesty international

INTERNATIONAL SECRETARIAT
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Mr Norman A Carlson
Director
Federal Bureau of Prisons
US Justice Department
Washington DC, 20534
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TG AMR 51/87/14

20 May 1987

Dear Mr Carlson

I am writing to express concern about the conditions of confinement of three convicted female prisoners, Susan Rosenberg, Alejandrina Torres and Sylvia Baraldini, who, since October 1986 and (in Ms Baraldini's case) January 1987, have been housed in a special unit within the Federal Correctional Institution at Lexington, Kentucky. According to reports, these women are being held in isolation from all other inmates in a specially controlled environment in which they are subjected to 24-hour camera surveillance, with logs maintained of all their activities, including their conversations and taking showers. The unit is reportedly situated in a basement, or semi-basement, area of the prison with virtually no natural light and no natural ventilation or fresh air. Heavy security screens placed over the cell windows make it impossible for the prisoners to see outside and artificial lighting is said to be required at all times. The floors, ceilings and, until recently, all walls in the area are reported to have been painted in white gloss, adding to a lack of sensory stimulation in the unit. The women are also reported not to be allowed any personal possessions nor to hang posters or pictures in their cells.

Although the three prisoners may (at the discretion of guards) associate with one another during the day, they may not participate in the work, educational, rehabilitation or other programmes afforded general population prisoners. Their work reportedly consists of folding army shorts for six and a half hours a day in a small, poorly ventilated and windowless room, which was formerly a utility closet.

Other restrictions, also, are placed upon these inmates which would appear to exacerbate their conditions of isolation and do not apply to other prisoners. These include being allowed visits by immediate family members only, with the result that Sylvia Barandini receives no social visits at all; restrictions on correspondence, and the withholding of certain newspapers and periodicals.

Amnesty International understands that that these conditions have been imposed upon the prisoners for reasons of general security rather than for disciplinary infractions or specific behavioural problems. Their confinement in the above circumstances is therefore of an indefinite nature.

Amnesty International believes that prolonged isolation and the very limited opportunities for social contact of the kind described above can have a detrimental effect on the physical and mental health of prisoners, and may amount to "cruel, inhuman or degrading" treatment. In a 1979 study of small-group isolation of politically motivated prisoners in the Federal

Republic of Germany, Amnesty International found that many of the prisoners concerned suffered from pathological disorders caused by their conditions of confinement. These included mental disorders, including emotional disturbances, impairment of concentration and ability to think, loss of reality and neuroses. Physical effects included disturbances to the autonomic nervous system, low blood pressure and circulation problems, leading to headaches, dizziness, digestive problems and sleep disturbances. The FRG prisoners were held in conditions similar in certain respects to those prevailing in Lexington's special unit: isolation from general population inmates; the painting of all surfaces white with prisoners being forbidden to hang anything on the walls; no natural light, and continuous "unobtrusive" observation by guards and video cameras. The conditions in Lexington reportedly have already begun to have detrimental effects on Alejandrina Torres, who has complained of headaches and an inability to read more than two or three pages at a time.

Although Amnesty International understands that the women in Lexington prison have TVs in their cells, this is not, in its view, an adequate substitute for contact with other prison inmates and with the outside world, and for meaningful work, social and rehabilitation programmes, particularly given the apparently indefinite nature of their confinement in these circumstances.

An additional cause for concern relates to the systematic strip searching of these three women, which is reportedly performed whenever they leave or enter their cells. Given the conditions of maximum security in which the women are held, the strip searches would appear to be undertaken for purposes of humiliation rather than security needs. Amnesty International is also concerned by reports that Ms Torres was taken for a medical examination in chains which were only removed after the doctor insisted; male guards accompanying her reportedly watched her undress through the open door. This treatment, again, would appear to be designed to humiliate the prisoner rather than for valid security reasons.

Amnesty International is also concerned by reports that, prior to their transfer to Lexington, Susan Rosenberg and Alejandrina Torres were obliged to submit to a vaginal and rectal cavity search which was carried out by a male prison employee: both were denied the alternative of an X-ray inspection and the incident, which involved the use of force, appears to have been aggressive, violent and designed to humiliate the women. The Deputy Director of the US Federal Bureau of Prisons has stated that the cavity search in this instance was neither punitive nor outside established policy. However, Amnesty International believes physical cavity searches of female prisoners by male employees for non-medical purposes is inherently degrading and should not be practised. (Although there may be some circumstances where this may legitimately be done by medical doctors of either sex, there appear to be no valid grounds for such action in this case.)

Amnesty International believes that the conditions under which the above women are detained, including their lack of association with other inmates, the additional restrictions imposed upon them and the humiliating strip searches, may constitute "cruel, inhuman or degrading" treatment, in contravention of Article 5 of the Universal Declaration of Human Rights. The lighting in the unit would also appear to conflict with Article 11a of the UN Standard Minimum Rules for the Treatment of Offenders as well as with ACA standards.

Amnesty International is not in a position to comment on the security measures required to accommodate these women. However, the needs for security should not conflict with the requirements of humane treatment. Amnesty International understands that these women are being held in more restrictive conditions than those applying to other inmates graded at a similar security level and, unlike some other inmates who are nevertheless held in the general prison population, have no prison history of escape, violence or serious disorder.

We should be most grateful for your comments on the conditions under which these prisoners are being held and the reasons for the multiple restrictions imposed upon them. We would respectfully urge that the conditions be reviewed with a view to eliminating such aspects that may constitute cruel, inhuman or degrading treatment.

Yours sincerely,



Ian Martin
Secretary General



U.S. Department of Justice

Federal Bureau of Prisons

RECEIVED
TO
COMM.

Washington, DC 20534

June 12, 1987

FG AMR 51/87.23

Mr. Ian Martin
Secretary General
Amnesty International
International Secretariat
1 Easton Street
London WCX1 8DJ United Kingdom

Dear Mr. Martin:

I am responding to your letter of May 20, 1987, in which you raise a number of issues regarding the operation of the High Security Unit for offenders at the Federal Correctional Institution, Lexington, Kentucky. In addition, you inquire about the health of one of the prisoners, Alejandrina Torres.

The new unit at Lexington is designed for the small number of females who, in our judgment, require more security than can be provided in any of the five federal institutions housing female offenders. We are particularly concerned with inmates who may be subject to rescue attempts by outside groups. In order to ensure that only inmates requiring maximum security are assigned to the unit, each case is personally reviewed by the Director or Deputy Director of the Bureau of Prisons prior to transfer. All prisoners who are currently housed in the unit or who have been approved for transfer there have been found to meet the placement criteria and to be properly classified for the unit. The political affiliation of a prisoner is not a factor which is considered in our classification process and has not been considered in these cases.

This unit is not a control unit nor a disciplinary unit and sensory deprivation is not practiced nor condoned there. In its daily operation in inmate programs, the unit very closely resembles our small Witness Protection Units. We have ensured that inmates in the unit have access to educational, religious, medical and mental health programs and we have established a small industries program there. There are daily opportunities for inside and outside recreation. With the exception of short periods during the day, prisoners in the unit are allowed out of their cells from 7:30 a.m. to 9:45 p.m. and are allowed to freely associate with other residents of this unit. They are allowed full correspondence privileges and access to personal and legal visits and outside telephone calls.

Let me clarify several specific issues which you raise. All walls in the unit have been painted in soft, earth-tone graphics. Although residents are not allowed to tape pictures or posters on the cell walls, they are provided with a bulletin board type surface on which they can hang such pictures. These regulations are the same as those to which other inmates throughout the Lexington institution are subject. The Industries work area is well ventilated and has one outside window. The door to the room remains opened and sufficient vents have been installed to accommodate air conditioning and ventilation.

It is not true that the women in the unit are subject to systematic strip searches whenever they leave or enter their cells. In fact, they are not subject to any search, including a pat search, when they enter or leave their cells. Likewise, it is untrue that male guards accompanying Ms. Torres to a medical examination were allowed to watch her undress through an opened door. There is no formal nor informal policy wherein security searches of inmates at Lexington are designed to humiliate prisoners.

Ms. Torres' medical problems have been closely monitored and she has received extensive testing as well as appropriate examination by outside specialists. She was provided with a new set of reading glasses which has help to alleviate her complaints of headaches.

Regarding the particular search conducted of Ms. Torres and Susan Rosenberg prior to their transfer to Lexington, our careful review indicates that the search was not punitive nor outside of agency policy. This very isolated occurrence involved a search that was performed in a professional manner by a qualified physician's assistant.

I assure you that the prisoners at Lexington are being confined in a humane and proper manner.

Sincerely,



J. MICHAEL QUINLAN
Deputy Director



amnesty international

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TG AMR 51/87/37

Mr J Michael Quinlan
Deputy Director
Federal Bureau of Prisons
US Department of Justice
Washington, DC 20534
USA

6 October 1987

Dear Mr Quinlan

Thank you for your letter of 12 June 1987 about conditions in the High Security Unit at the Federal Correctional Institution in Lexington, Kentucky.

Amnesty International notes the points you have made in your letter. However, we remain concerned that the women in the unit are being held in small-group isolation of apparently indefinite duration and by other aspects of their confinement which we believe could cause severe mental and physical stress when imposed for a prolonged period.

You state in your letter that the inmates have access to educational and religious programs and that a small industries program has been established in the unit. However, we understand that the women in the unit have a choice of work consisting either of simple cleaning duties or folding army underwear for six and a half hours a day and that they have no access to the training, rehabilitation programs, educational classes or group occupational activities afforded to other long term inmates given similar security grades. In addition, we are informed that, unlike other prisoners, the unit's inmates are severely restricted in the number of books they may have and in the personal possessions they may keep in their cells. In view of the very long sentences being served by these inmates, the lack of any meaningful work programmes and the other deprivations referred to above would appear to create unnecessary hardship and exacerbate the conditions of isolation. The continued restrictions on visits to those with immediate family members only, which do not apply to other inmates, may also increase the inmates' sense of isolation, especially in the case of one prisoner who has no close relatives living in the United States.

The continuous monitoring of the prisoners through remote-controlled camera surveillance is reported to be a cause of additional stress, depriving the inmates of even a minimal sense of personal privacy. The cameras reportedly extend into the shower units which have no curtains and where the women may be watched by male guards. This constant monitoring of their every movement is also reported to have inhibited the prisoners from using the recreation room. Given the already secure nature of the unit, the extent of the camera surveillance would appear unnecessarily intrusive.

It has also been reported that the guards in the unit have been instructed to keep a log of all their conversations with the inmates and that their relations with the inmates are deliberately remote. This is said to increase the isolation and sense of "depersonalisation" engendered by the overall atmosphere in the unit.

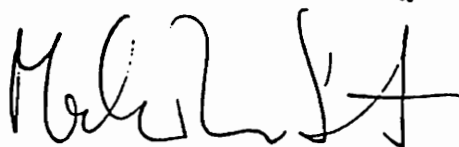
An additional concern remains the daily systematic strip searching of the women which we are informed takes place whenever the prisoners enter or leave the outside recreation yard which they are permitted to use for one hour a day. The exercise yard is reported to be surrounded by a high concrete wall and is itself part of the High Security Unit. The yard is monitored by cameras and the prisoners reportedly exercise two at a time under the constant supervision of guards. In view of these circumstances, the strip searches would appear to be unnecessarily humiliating and to exceed what may be required on security grounds.

Although you state in your letter that the High Security Unit is designed, in particular, for female inmates who may be subject to rescue attempts by outside groups, we are concerned that the conditions for removal from the unit appear to be based on factors beyond the prisoners' own control, offering them little hope of alleviation from their present circumstances. In at least one of the three cases to whom this applies, the prisoner's alleged political association with FALN and other groups was included in the "rationale" given by officials for her transfer to the unit, with reference to the fact that FALN had engaged in attempts to free prisoners in the past. However, none of the three women concerned has any history of escape or attempted escape in their several years in prison, nor, we understand, have they incurred any serious disciplinary reports; one of the prisoners, shortly before her transfer to the unit, was reportedly recommended for a reduction in her custody level by her previous prison, where for some time she had been working as a librarian and had had regular access to less secure units of the prison. We understand that transfer from the High Security Unit will be considered only when "... the original factors which required placement ... into the unit no longer apply". It would appear, therefore, that confinement to the unit depends not on the prisoners' own behaviour but on the hypothetical risk of what others might do to assist their escape and that, short of their renouncing affiliation to groups deemed to present such a risk, this confinement will be indefinite. Several of the women allege that officials have told them that they will never leave the unit.

As we have stated in our previous correspondence, Amnesty International believes that longterm small-group isolation in the conditions described can have a harmful effect on prisoners' health. This appears to be borne out in these cases by the observations made by Dr Richard Korn, who accompanied the National Prison Project on its recent tour of the unit. He found that the women were developing symptoms of depression and withdrawal which, over a period of time, could lead to serious mental and physical breakdown. These included, among other things, feelings of claustrophobic panic, visual disturbances, loss of concentration and focal attention, marked weight loss, apathy, dizziness and heart palpitations. (See Appendix to report by the National Prison Project on the High Security Unit, August 25, 1987.) Dr Korn noted that the Unit Psychologist, who is required to see each prisoner only once a month, did not perceive his role as monitoring the inmates' suitability for confinement in the unit. Although he provided some form of counselling for inmates who requested it, he did not attend the prisoner review hearings

Amnesty International respectfully urges you to reexamine the conditions under which these prisoners are held with a view to alleviating those aspects which, as described above, appear detrimental to the prisoners' physical and mental health. We hope also that review procedures can be implemented which will provide a more realistic opportunity for the women to meet conditions required to achieve their removal from the High Security Unit. We should also be grateful to know whether any measures are being considered in the light of the National Prison Project's report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Malcolm Smart', with a long horizontal flourish extending to the right.

Malcolm Smart
For the Secretary General



AMR 51/57.28

U.S. Department of Justice
Federal Bureau of Prisons

4

COPIES

Washington, DC 20534

October 23, 1987

Mr. Malcolm Smart
Amnesty International
1 Easton Street London WC1X 8DJ
United Kingdom

Dear Mr. Smart:

We have received your correspondence of October 6 in which additional concerns regarding the Female High Security Unit at the Federal Correctional Institution, Lexington, Kentucky, were raised.

The issue of dealing effectively with our growing female population, including those requiring high security, has been a focus of attention for the Bureau of Prisons' Executive Staff. A decision has recently been made to establish a housing unit appropriate for the confinement of high security female offenders at our new institution located at Marianna, Florida. The construction of this institution is on schedule and it is expected to open during mid-1988. In the interim, the existing High Security Unit at the Lexington facility will continue to operate.

The establishment of the high security unit operation at the Marianna institution will allow us greater flexibility with regard to all aspects associated with the normal day to day operations including inmate programs, inmate movement, etc.

As was previously alluded to, in your most recent correspondence a number of additional concerns were raised regarding operational aspects associated with the High Security Unit. The following information is presented in order to address each of those concerns:

- a). Monitoring of Inmate's Conversations: It is alleged that the correctional officers assigned to the High Security Unit have been instructed to record all their conversations with the inmates and further that they have been instructed to maintain deliberately remote relationship with the inmates. Neither allegation is accurate. It is a common security

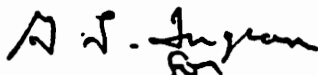
practice in any housing unit within the Bureau of Prisons to maintain a "confidential log" for use by correctional staff to record significant and/or unusual events which occur during their shift. The basis for this procedure has its origin in sound documentation as well as effective communication. All correctional staff assigned to this unit deal with the inmates consistently as they would with any other federal prisoners. Obviously, all staff are aware of the high security designation of this particular unit and the security concerns related to each of the prisoners.

- b). Assignment to and Removal from the High Security Unit:
It has been repeatedly stated that there is no published criteria which outlines in detail elements which must be met in order for a prisoner to be assigned to or removed from the unit. Any inmate's assignment to the unit is the direct result of our staff's professional assessment of the individual security needs based on factors such as nature of offense, prior criminal record, length of sentence, information pertinent to security concerns provided by other law enforcement agencies, and the individual security needs as assessed by our security designation/custody classification system. Prisoners are not assigned to the unit on the basis of political beliefs and/or ideology. A prisoner's past or present affiliation, association or membership in an organization which has been documented as being involved in acts of violence, attempts to disrupt or overthrow the government of the United States, or whose published ideology includes advocating law violations is a factor considered by our staff in assessing the security needs of any inmate. A prisoner's removal from the High Security Unit is determined by the ongoing professional assessment of our staff regarding the factors which were originally determined to warrant the prisoner's placement in the unit. Again, no prisoner is assigned to the unit or removed from the unit without the personal review of my office.
- c). Security Searches: In the past, it has been the practice of our staff to conduct strip searches on all inmates leaving the outside recreation area of the unit. We have recently made several modifications to the outside recreation area which will allow us to conduct these strip searches on a random basis rather than routinely.

- d). Visiting: Staff at Lexington have recently established a auxiliary visiting room for use by inmates assigned to the High Security Unit. Again, the existing visiting room will be the primary facility used for scheduled visits, however, the new auxiliary visiting area will certainly facilitate any future visiting scheduling conflicts. Additionally, approved visitors will be considered on a case by case basis and will not necessarily be restricted to immediate family members only.
- e). Video Monitoring: For security reasons video cameras are utilized in the High Security Unit as well as on the outside recreation area adjacent to the unit. Physical barriers (curtains) have been and are in place in the unit to prevent video monitoring of any sort of the shower area. An additional curtain has been recently installed to enhance this aspect of the unit operation. Correctional officers assigned to the unit do not stand and observe the prisoners while they are showering.
- f). Medical: Ongoing investigation into complaints regarding medical treatment provided to the inmates assigned to the High Security Unit reveals that this area has and will continue to be expeditiously and appropriately handled by staff at the Lexington institution. Medical and/or psychological needs presented by the inmates are of utmost importance to our staff and resources in place provide for the expeditious and professional handling of these concerns.
- g). Correctional Programs: Educational, religious and recreational programs in place at the High Security Unit are very adequate and are commensurate to similar programs offered to general population inmates assigned to other institutions throughout the Bureau of Prisons. We will continue to expand the programs available to the High Security Unit inmate population based on our staff's ongoing assessment as well as evaluating requests made by individual inmates assigned to the unit.

I am confident the information presented in this correspondence will assist you and your staff in gaining a better understanding of certain elements associated with the High Security Unit operation. Again, it is our staff's firm determination that the High Security Unit is a safe, secure and humane operation which functions well within the parameters established for our agency by statute, regulation and sound correctional judgment. If there is any additional information you desire, please do not hesitate to contact my office.

Sincerely,



J. Michael Quinlan
Director



amnesty international

INTERNATIONAL SECRETARIAT
1 Easton Street London WC1X 8DJ
United Kingdom

TG AMR 51/88/18

Mr Michael Quinlan
Director
Federal Bureau of Prisons
Department of Justice
Washington, DC 20534
USA

14 July 1988

Dear Mr Quinlan

At the request of Amnesty International, Mr Rod Morgan, Director of the Centre for Criminal Justice at the Universities of Bristol and Bath in the UK, observed the hearing of a motion for a preliminary injunction to prevent continued use of the High Security Unit (HSU), at Lexington Federal Prison, Kentucky. Mr Morgan attended the court hearing in Washington, DC, on 2 June; studied the case papers prepared by lawyers for the plaintiffs and defendants; and interviewed plaintiff Ms Susan Rosenberg in the Washington City Jail. The purpose of his mission was to advise Amnesty International in its assessment of past and continuing conditions in the Unit and their effect on the inmates concerned. Mr Morgan has for many years conducted research and written widely on prison regimes in the UK, other European countries and the United States. He is a magistrate and a former member of the Board of Visitors to a British prison.

Although judgment in the case is still pending, Mr Morgan has submitted a preliminary report in which he confirms Amnesty International's previously expressed concerns. He concludes that conditions in the Unit amount to cruel, inhuman and degrading treatment, after taking into account "a complex range of features" including allocation procedures, physical conditions and regime. He also finds that there is overwhelming evidence that the prisoners in the HSU have deteriorated physically and psychologically during their custody there.

On physical conditions and regime, Mr Morgan observes that "whereas small high security units for long term prisoners generally provide privileges for prisoners within the unit greater than those generally accorded general population prisoners, the reverse appears to be the case at HSU." The HSU prisoners not only lack all contact with other inmates, but a range of additional restrictions are imposed upon them, leading to a regime which Mr Morgan terms "deliberately and gratuitously oppressive." These include the constant use of security chains whenever the prisoners leave the unit and repeated strip searching, which appear to be in excess of security needs; an almost total lack of privacy and claustrophobic lack of sensory stimuli; restrictions on freedom of movement and choice of activities and a lack of personal possessions which are commonplace in other Federal Bureau of Prisons (FBP) establishments. Mr Morgan concludes that these conditions, "together with the incestuously small range of

contacts, cannot be other than debilitating". Although there have been some major changes in the operation of the HSU during the 20 months of its existence, the above features remain essentially unaltered. Mr Morgan also notes that a number of facilities which are provided in the Unit are, or have been, effectively rendered unavailable by virtue of the conditions attached to their use.

Mr Morgan considered the procedures and rationale for placement in the unit. He notes that the FBP does not contest that the security assessments for Susan Rosenberg and Silvia Baraldini are based on evidence available at the time of their conviction and that nothing in their subsequent behaviour has given cause for disciplinary action or serious concern. Both Rosenberg and Baraldini had been held in general population prisons before their transfer to the HSU without causing any security problems. The FBP provided no evidence that either prisoner had contact with former revolutionary affiliates that might give rise to fears of escape attempts, although the judge at the 2 June hearing invited submissions in camera. Two penal experts called by the National Prison Project of the American Civil Liberties Union (NPP) had considered the records of all the HSU prisoners and found no evidence to justify their placement in the Unit. They expressed the view that all could safely be held elsewhere in less restrictive conditions, as were equally or more seriously at risk prisoners within the federal system. The indefinite confinement in the unit for "impenetrable" reasons, which the inmates were unable to influence by their own behaviour, has been assessed as one of the major causes of stress found in the prisoners.

Mr Morgan reviewed the medical and psychiatric assessments made by practitioners on behalf of both the plaintiffs and respondents and interviewed Ms Rosenberg at length. He also watched a video recording of Ms Baraldini. He concluded that there was overwhelming evidence that the prisoners physical and mental health had suffered as a result of the conditions in the unit, the symptoms of which are described in two reports by Dr Richard Korn and in affidavits from the plaintiffs. These findings were supported in a more recent assessment made by psychiatrist Dr Stuart Grassian, and Mr Morgan himself found evidence of some of the symptoms described through his personal interview with Ms Rosenberg. Although Dr Korn's findings were challenged by the Unit's psychologist, who said that the women's complaints had not been reported internally, it appears that the inmates were reluctant to seek consultations with him, through fear that they were being subjected to a behavioral modification experiment. An independent medical expert appearing for the FBP criticized Dr Korn's report for not attributing specific symptoms to specific prisoners; this again was apparently due to the inmates' reluctance to be part of the perceived "experiment".

Mr Morgan comments at several points in his report on the last-mentioned claim, made by the prisoners and supported by the NPP, that the Unit was designed as an experimental behavioural control unit. Although no firm evidence has been produced that this was the intended purpose of the Unit, Mr Morgan comments that the unique nature of the restrictions placed upon these inmates, which differ substantially from those placed on other inmates held in small group segregation, lends support to the prisoners' perception that the HSU is an exercise in behaviourist experimentation and is being used punitively and politically. He also finds it "inconceivable" that such a unit, involving considerable preparation and expense, could have been constructed without careful planning and a specific mandate, yet

no details were presented in Baraldini v Meese. He found that this, too, lent credence to the suggestion that it was intended as an experimental control unit, at least in its original form and in the early months of the regime. Amnesty International is not in a position to verify this suggestion. However, we believe that experimental subjection of prisoners to prison conditions of this sort would be a flagrant violation of their fundamental rights. We are concerned that, in the absence of details of how the HSU came to be established, the available information is at least consistent with this suggestion.

Amnesty International is aware that the Federal Bureau of Prisons plans to close the HSU, Lexington, and to transfer the prisoners to a maximum security facility in Florida, which we understand is currently under construction. While Amnesty International welcomes moves to discontinue the Lexington unit, we urge, in the light of our observer's findings and our previously expressed concerns, that immediate steps be taken to end the more oppressive aspects of daily routine which are not apparently essential to the maintenance of security.

I enclose for your information the relevant parts of Mr Morgan's report.

Yours sincerely



Ian Martin
Secretary General

REPORT FOR AMNESTY INTERNATIONAL, INTERNATIONAL SECRETARIAT
RE: HIGH SECURITY UNIT (HSU) FOR WOMEN AT LEXINGTON FEDERAL PRISON,
KENTUCKY, USA BY ROD MORGAN, JUNE 1988

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REPORT FOR AMNESTY INTERNATIONAL, INTERNATIONAL SECRETARIAT

RE: HIGH SECURITY UNIT (HSU) FOR WOMEN AT LEXINGTON FEDERAL PRISON,

KENTUCKY, USA

BY ROD MORGAN, JUNE 1988

1 BARALDINI ET. AL V. MEESE ET. AL

1.1 Introduction

During 1987 the recently established HSU at Lexington, Kentucky became the focus of growing public attention and criticism. Conditions at the HSU were investigated by the American Civil Liberties Union National Prison Project (ACLU NPP) whose lawyers visited the establishment, as did corrections expert Dr. Richard Korn on their behalf and representatives of the General Board of the United Methodist Church. A pressure group - the National Campaign to Abolish the Lexington Women's Control Unit - was also formed, distributed leaflets ('Buried Alive in the Lexington Women's Control Unit') and generated media publicity. Correspondence was exchanged about HSU between ACLU NPP and the Federal Bureau of Prisons (FBP) Director, Norman Carlson (and subsequently his successor, Mr. Michael Quinlan) as well as Congressman Robert Kastenmeier, Chair of the House of Representatives' Sub-committee on Courts, Civil Liberties and the Administration of Justice. Amnesty International also engaged in correspondence with the same persons.

On 22 March 1988, ACLU NPP, acting on behalf of three prisoners at HSU - Silvia Baraldini, Sylvia Brown and Susan Rosenberg - commenced an action against those persons administratively responsible for HSU. The motion was for a preliminary injunction to prevent continued use of HSU. The nine defendants included Edwin Meese, US Attorney General, Michael Quinlan, Director of the FBP, and Robert Figlestahler, Unit Manager of HSU itself. The case was listed for 2 June 1988 before Judge Barrington Parker in the Washington DC District Court. It was part-heard on that date and adjourned for completion on 7 June, with judgement expected to follow in a matter of weeks.

1.2 Constitutional background

During the 1960s there was a massive growth in litigation by prisoners against the highly devolved federal, state and county prison systems in the USA. Prison conditions and procedures were held to be unconstitutional according to several Amendments. A good deal of case law was established and by the early 1980s a majority of the state systems, as well as several individual federal institutions, were subject to court orders requiring that: they reduce or eliminate crowding; improve or provide stipulated facilities; or conform to specified decision-making procedures.<1> However, in the early 1980s it became apparent that an increasingly conservative

<1> See Morgan and Bronstein, 'Prisoners and the Courts: the US Experience' in Maguire, Vagg and Morgan (eds) Accountability and Prisons, London: Tavistock, 1985.

Supreme Court was giving the lead for less intervention in matters of prison administration. Several celebrated decisions signalled not a return to 'hands off' but certainly a more restrictive view of prisoners' rights. In particular the courts were more parsimoniously conceding that prison conditions constituted 'cruel and unusual punishment' (Eighth Amendment) and were loath to interfere in matters of prisoners' security classification and their allocation to and transfer between institutions. This reluctance is important for any understanding of the present case.

1.3 The ACLU NPP Motion

ACLU NPP were allowed to bring their case as a matter of urgency. They sought an unusual remedy, namely a preliminary injunction for immediate closure of HSU, on the grounds that the plaintiffs were suffering irreparable injury by virtue of their continued detention therein. The standard test for granting a preliminary injunction is:

- i) likelihood of success on the merits;
- ii) likelihood of irreparable harm without an injunction;
- iii) little prospect that others will be harmed by the injunction;
- iv) that the public interest favours an injunction.

The memorandum subsequently submitted in support of the motion argued, regarding the merits test, that:

i) plaintiffs' transfer to HSU violated the First Amendment on the grounds that it was based on the plaintiffs' political beliefs and associations;

ii) plaintiffs' detention at HSU violates the Eighth Amendment in that the conditions there constitute cruel and unusual punishment;

iii) plaintiffs' transfer to HSU violated the Fifth Amendment in that it was done without notice of reasons and provided plaintiffs with no opportunity to be heard and, further, that their continued detention at HSU provides no reasonable procedure whereby they can obtain re-transfer to a normal prison population establishment.

Regarding the irreparable harm test, ACLU NPP argued that:

i) loss of First Amendment freedoms constituted irreparable injury per se;

ii) there is evidence (the plaintiffs' own declarations and the testimony of Dr. Richard Korn and Dr. Stuart Grassian) that the women are suffering various physical/psychological/psychiatric disturbances as a result of their detention at HSU.

Regarding the possible harm resulting from an injunction test, ACLU NPP argued that from a security standpoint the women could as easily be held in other FBP establishments and at less cost and that the public interest test would best be satisfied if the detention of prisoners conformed to the standards of justice embodied in the Constitution.

On 2 June 1988 ACLU NPP lawyers presented these arguments, drawing on voluminous written testimony, for a period of two hours. They were closely questioned by Judge Parker who, in view of the speed with which the case had been brought and was due to be heard, indicated he did not wish to hear from the plaintiffs. Baraldini and Brown did not attend the court hearing (though both made declarations on paper, and one of them also on video). Rosenberg, who happened currently to be held in the Washington City Gaol pending further charges, was allowed to attend on 2 June and, somewhat surprisingly, to give testimony on 7 June.

Thereafter on 2 June lawyers acting for FBP (none of the defendants attended the hearing or personally gave evidence) argued for approximately one hour in support of their countervailing motion that the defendants' motion for a preliminary injunction be dismissed. The FBP case is summarised as follows:

i) that the plaintiffs' transfer to HSU has nothing to do with their political beliefs per se, but is based on the security threat they and their affiliates (former and possibly current) pose. Further, that they cannot reasonably be held currently at any other FBP establishment, though this will shortly be possible when a new high security prison at Marianna, Florida, comes on stream, probably in mid-July, when HSU will be closed. Therefore there is no First Amendment violation. In any case the courts have repeatedly held that the Attorney General 'may designate as a place of confinement any available, suitable and appropriate institution or facility...and may at any time transfer a person from one place of confinement to another';

ii) that the plaintiffs' security assessment and allocation to HSU has been according to proper FBP procedures sanctioned at the very highest level. Further, the courts have repeatedly indicated their wish to defer to the transfer wishes of prison authorities. Therefore no question of a Fifth Amendment violation arises;

iii) that conditions at HSU, many aspects of which have been improved during the past year, are acceptable and comparable to other institutions. Certainly no Eighth Amendment violation can be sustained on the grounds that, to take the test upheld in recent judgements, all "basic human needs" are met therein. The plaintiffs have simply offered a catalogue of minor complaints, most or all of which have in any case been remedied.

As to the preliminary injunction tests: the plaintiffs cannot demonstrate any likelihood of prevailing on the merits (legal or factual) of the case; there is no substantive evidence of irreparable harm to the plaintiffs (FBP's own experts: Simpson, HSU psychologist, and Dr. Logan, assessor, contest Dr. Korn's evidence); transfer of plaintiffs to another establishment would risk harm to staff and public; and thus closure of HSU would not be in the public interest.

1.4 Conclusion

The ACLU NPP case is contested both on matters of fact and law on almost every point. The practical and thus legal difficulty for ACLU NPP is as follows. The case has, by US standards, been brought speedily. As a consequence a good deal of last-minute evidence was submitted and the

grounds of the case have shifted to some extent'. This applies particularly to the conditions at HSU. Alleged deficiencies have allegedly been remedied, whereupon new imperfections have been cited. It was for this reason that the judge, who on 2 June showed himself to be both interested in the issues and cognizant of the crucial factors, displayed some impatience with the extent and complexity of the written evidence on which he was being asked to come to a rapid decision. He adjourned the case to 7 June so that counsel for the plaintiffs and defendants could both prepare for him a more concise memorandum summarising the arguments with specific supporting evidence in exhibits being clearly cited. He was not prepared to read volumes of paper, view long videos or listen to advocates in court for more than the one or two hours allowed.

The difficulty is, as the judge indicated on 2 June, that he hoped the case was not an 'exercise in futility'. Namely that some of the plaintiffs' complaints have already been remedied and, if FBP's predictions are accurate, HSU will in any case close in a few weeks' time - possibly shortly after or about the same time as the judge is ready to give judgement. In which case how wise will the issue of a serious injunction be to close HSU immediately? It is for this reason that I am relatively pessimistic that the legal outcome of this case will do justice to what I argue below are the serious aspects of the operation of HSU over the past eighteen months.

2 HSU: ITS NATURE AND USE

2.1 Introduction

The HSU at Lexington, Kentucky was opened in September 1986. Situated within, but completely separate from, a larger medium security prison for women, HSU was created for a small number of prisoners whose security needs could not, in the opinion of FBP be catered for at other federal institutions for women. The Unit has accommodation for up to 16 women but has never held more than seven: until March 1988 there were only five prisoners of whom the plaintiffs in the above case are three. When a new high security prison currently being built (at Marianna, Florida) is completed, FBP has said that HSU will close. The latest estimate for this event is mid-July 1988. There have been major changes in the operation of HSU during its life of 20 months. This is conceded by FBP.

2.2 Creation and purpose

The creation of HSU is shrouded in some mystery. Indeed, the failure of lawyers - for plaintiffs and defendants - in Baraldini v. Meese to discover any document setting out the planning objectives and commissioning procedures for HSU provoked Judge Parker to make several sceptical remarks on 2 June. He did not find it credible that FBP would plan a facility costing in excess of one million dollars without substantial long-term planning statements. No such documents have been produced. As a consequence we have simply the statements from successive Directors of FBP to ACLU NPP, Congressman Kastenmeier and others to the effect that there were women prisoners who could not be held safely in existing federal institutions - though, as we shall see, no evidence has been produced that

most (though not all) of the women subsequently allocated to HSU were not being safely held at other institutions.

The criteria for allocation to HSU are stated to be:

a) 'females whose confinement raises a serious threat of external assault for the purpose of aiding the offender's escape' and

b) 'other females who have serious histories of assaultive, escape-prone or disruptive activity'.

[As we shall see, ACLU NPP claim that these criteria have been amended over time.]

Nothing further is known about the origins or planning of HSU. The Unit is largely self-contained (prisoners seeking medical or dental treatment go to a medical area which also serves the main prison at Lexington) and has its own staff. The prisoners at HSU believe the staff at HSU have been specially selected and trained to work in the Unit, but there is no firm evidence to support this contention and it is denied in the testimony of the HSU Manager Figlestahler. It is the prisoners' decided belief - substantially shared by ACLU NPP lawyers - that HSU was set up not simply to contain high security prisoners, but as a behavioural experiment in the control and possibly breaking of women who may have constituted a security risk but, more importantly, held firm political views to justify their criminal actions and response to imprisonment: that it was designed for prisoners who, whether or not their status was conceded by the Government, regarded themselves as 'political prisoners' and thus were, in effect, being treated as such. All this is categorically denied by FBP: HSU is certainly their highest security unit for women but otherwise functions, they say, according to normal FBP policy. Unit Manager Figelstahler claims HSU regime and procedures are not substantially different from other FBP units. It certainly appears that very strict measures have always been taken to ensure that there is absolutely no contact, by sight or sound, between HSU prisoners and other prisoners at Lexington. FBP has compared the Unit to a high security 'witness unit' (where prisoners who have given evidence for the state against organizations such as the mafia are held for their own protection). Were the Unit fully occupied its facilities might be deemed cramped. Given that the Unit has functioned for over eighteen months less than one-third occupied, it has to be described as a small-group isolation unit with conditions of the strictest security.

Most importantly, whereas small high security units for long-term prisoners generally provide privileges for prisoners within the unit greater than those generally accorded general population prisoners, the reverse appears to be the case at HSU. This characteristic lends support to the prisoners' perception that HSU is an exercise in behaviourist experimentation and is being used punitively and politically. This the FBP strenuously denies: all aspects of the regime at HSU are justified by FBP by the prisoners' security rating.

2.3 HSU Facilities

HSU comprises the basement of a larger building (upstairs are medical and other facilities serving the prison at Lexington generally) and is built in the form of three sides of a square. One side comprises the cell unit, cells on either side of a corridor, seven on one side and nine on the other. The asymmetry is explained by the presence of two extra rooms (possibly the same size as the cells): one is the so-called 'multi-purpose room', the other is the law library. The corridor is a cul-de-sac with a metal grille at the exit end of the corridor. There is a TV camera sited above the grille covering the cell corridor. The cells on one side of the corridor are relatively dark in that they are for the most part below ground level and the windows start high up the walls. The cells on the other side are relatively light. However in no case do the cell windows allow in much light because all are covered on the inside by fine metal security mesh. To see anything on the light side one has to put one's eye close to the mesh to get a fuzzy view of the limited view (the perimeter fence, etc.) beyond [detail from my interview with Rosenberg]. Thus, apart from their own cells, the only room to which prisoners can have straightforward access (without seeking permission through the corridor gate) or be free from TV surveillance, is the small multi-purpose room which contains a simple table and upright chairs.

Until the Autumn of 1987 all prisoners were housed in the cells on the 'dark' side of the corridor, despite the fact that the 'light' cells opposite were unoccupied. No justification was given for this by management, though it was suggested to prisoners that they might be moved to the 'light' cells if their behaviour merited the privilege.

Immediately outside the cell corridor gate is a shower room on the right. This lies at the end of the connecting corridor which runs to the left, at the end of which is another TV camera sweeping the connecting corridor. When the shower room curtain is open this camera also covers anyone in the shower. Running at right-angles to the connecting corridor is the third leg of the Unit: here is the so-called 'day room' which has a TV camera within it.

Outside the Unit, and entered from the connecting corridor, is the recreation yard. Three sides of it are walled: one side comprises a fence topped by security wire. According to Rosenberg [personal interview] 26 1/2 circuits of the yard equal one mile. This suggests that the yard is approximately 50 feet square.

There is some disagreement about the size of cells. According to Rosenberg the cells are not all the same size and she claims that her current cell is exactly 8 x 10 ft. According to the FBP lawyers on 2 June, the cells exceed 100 sq. ft. There is no dispute, however, that each cell contains: a single bed; a metal wc; a metal shelf and stool; a small metal cabinet (for spare clothing); a small notice-board, and a 19 inch colour TV set. Artificial lighting is necessary in all cells to read and is provided by fluorescent strip lighting which is bright. The lights are dual controlled, by the prisoner from within the cell and staff from the corridor; the latter control overrides the former.

Prisoners at HSU are not allowed possessions which are commonplace at other FBP establishments. They may not wear their own clothing (including underclothing), jewellery (though Rosenberg was eventually allowed some

ear-rings), or other minor possessions. According to prisoners the clothes with which they are issued are often ill-fitting. The prisoners claim they have to ask for everything they need including, one at a time, tampons during their menstrual periods. This is denied by Unit Manager Figlestahler who claims prisoners may have a reasonable number of sanitary towels (though he concedes that large stocks of tampons appear not to be stored at HSU).

The small library room contains basic law books but the library book system is not integrated with that for Lexington Prison generally. Requests from prisoners for books which are in the well-stocked Lexington Library have not, according to Rosenberg [private interview], ever been met. HSU staff buy in new books in large quantities at a time using their own judgement (wrongly, according to Rosenberg) as to what HSU prisoners will want to read: in addition prisoners are allowed to receive books sent in as new from bookshops - most of these they have donated to the library.

The day room contains an exercise bicycle and a rowing machine. The recreation yard has recently been equipped with some metal patio furniture. The walls of the HSU were originally painted gloss white throughout. In Spring 1987 the Unit was redecorated beige and now has 'additional graphics'.

For over one year the shower room was equipped with no curtain so that anyone using it could be overseen by staff (male and female) and the corridor TV camera. To prevent this several strategies were used: prisoners hung a sheet over the entrance; or refused to use the shower (using a foot bath in the laundry room instead); or entered the shower fully-clothed. A shower curtain was eventually supplied (this history is not contested by FBP): when FBP lawyers argued on 2 June that they were not aware that there had been any incidence of male staff taking advantage of the absence of a shower curtain they were chided by the judge not to be disingenuously naive.

Food is delivered ready-made to a room at the end of the cell corridor from whence it is passed out through a slit to prisoners in the corridor. According to Rosenberg, HSU staff originally prescribed that meals should be eaten in the day room, but because the room was under TV surveillance the prisoners refused and each ate alone in their cells. Most prisoners now take their meals in the multi-purpose room (a move not allowed for several months) precisely because this is the only room not under TV surveillance.

It is important to note why many of the discrepancies (some of which have already been cited) between FBP and prisoners' accounts about facilities at HSU arise. Prisoners claim that several facilities are not truly available to them because of the intolerable conditions accompanying their use. Thus, for example:

- i) the shower was not truly available because it had no curtain;
- ii) the day room was unacceptable because it was continuously swept by a TV camera;
- iii) the recreation yard was not used (by some prisoners) because of the unacceptable strip-searching to which anyone using it was subject after each and every use: strip-searching was done despite the fact that no more

than one prisoner (subsequently two) could use the yard at any one time; that recreation was limited to one hour per day (weather and staff availability permitting); that the yard was subject to TV surveillance; that a guard was always in the yard during use; and that the yard could not be used when any workman or prisoner from the main prison was close to the other side of the fence-side perimeter of the yard.

As a consequence, all three plaintiffs testify that the usable space within HSU is much smaller and the facilities far fewer than any straightforward physical description might suggest.

An overview of conditions at HSU is provided by two penal experts, Gordon Kamka and Louisa Brown, both with wide experience of governing different types of prisons. Following his inspection of HSU in May 1988 Kamka found the conditions 'oppressive' and 'debilitating' and without 'sound correctional justification'. He describes the manner in which prisoners were transferred to HSU, the physical conditions and the regime within HSU as one of total debilitating control - "I don't believe that unit is proper for anyone". Unlike other high security units run by FBP and state systems. Kamka's views are broadly endorsed by Brown. She describes the day to day running of HSU as "perversely quite negative...arbitrary and didn't have rational basis in good correctional practice".

2.4 HSU Prisoners and their allocation

HSU has only ever had seven prisoners: two (including Rosenberg) arrived in October 1986; two arrived in January 1987 (including Baraldini); one in May 1987 (Brown); one in March 1988 and one in June 1988. Thus the longest stay (Rosenberg) has been twenty months.

Though all the prisoners in the Unit are serving very long sentences, their character and histories are different. The following case details are important to evaluate the government's claims that the plaintiffs constitute a high security risk and cannot be held elsewhere.

Susan Rosenberg. Rosenberg is serving 58 years for eight counts of conspiracy, weapons charges and false identification offences. She had no previous convictions, had been university educated and had for several years been involved in various community development programmes. She is now 32 years of age. She was allegedly associated with the FALN, the Black Liberation Army and 'The Family' (a group allegedly committed to violent support of the Black Liberation Movement) and when arrested with co-defendants was found with a cache of arms, explosives, blasting agents and caps, etc. There were also found numerous false identification documents for Social Security, the Department of Employment, the FBI and the New Jersey State Police. She is currently awaiting trial (with the same co-defendants) for bombing the Capitol several years ago. At the time of her trial she made a political speech from the dock and pledged that "we begin a long struggle alongside other captured comrades as political prisoners. We will continue to struggle and to fight and to resist". However, at the 2 June hearing the government admitted that it had no evidence that Rosenberg is still in active contact with any of her former revolutionary affiliates, nor has she made any escape attempt or been found to be in breach of the security conditions to which she is constantly subject. The judge who sentenced her wrote to the FBP Director urging that she be incarcerated under the tightest possible security. This the Director

undertook to do.

Rosenberg was originally transferred from her remand prison to a security prison in Tucson, Arizona, in 1985 and to HSU shortly after it opened. Her allocation was approved by the FBP Director.

Silvia Baraldini. Baraldini is serving 40 years for 'racketeering' and conspiracy to engage in armed robbery (Brinks Matt). She has no previous convictions and I judge her to be in her 30s. She also is university educated. She is alleged to have been involved in the escape of Joanne Chesimard, the Black Liberation Army leader, who has never been recaptured and is said now to be in Cuba. She is said to be a member of something called The May 19th Communist Party (which, according to her own testimony, no longer exists) and 'The Family', a group the Government claims gives violent support to the black revolutionary movement (affiliated to the New Africa Freedom Front and the FALN). At the 2 June hearing the Government conceded that it had no evidence (the judge invited submission of any evidence in camera) that Baraldini is still in contact with or is an active member of either The Family or The May 19th Communist Movement. Since her incarceration she has made no escape attempt or otherwise been found to be in breach of the security conditions to which she is subject.

Baraldini has served four years. Until September 1984 she was held at the New York Metropolitan Correctional Center (MCC), essentially a remand prison, and was then transferred to Pleasanton, a secure prison for women in California. At both these prisons she was held in the general population. At Pleasanton she was employed on two jobs, first as librarian (a job which allowed her considerable autonomy and movement) and second in the kitchen where, responsible for vegetable preparation, she had access to knives and other cutting implements. No problems of discipline or security arose and she left Pleasanton a model prisoner as far as staff there were concerned.

According to her own testimony, Baraldini's transfer to HSU was done without warning according to FBP instructions (according to Baraldini it was not initiated by Pleasanton staff who found her a satisfactory prisoner) shortly after she refused to receive a visit from the FBI. This is denied by FBP who claim that the original proposal that she be transferred came from the Pleasanton Warden on the grounds of Baraldini's affiliations at the time of conviction with violence-prone groups who had, inter alia, organized the escape of Chesimard. Transfer was approved by the FBP Director. The Government claims to know nothing about any intended FBI visit.

Sylvia Brown. Brown differs fundamentally from Rosenberg and Baraldini. She has several prior convictions dating back to 1975 for kidnapping, aggravated robbery, escape, burglary and forgery. She is serving a sentence of 22 years and is 45 years of age. On her last arrest she was in possession of a pistol equipped with armour-piercing ammunition. She has also presented a considerable control problem in prison. She has escaped from prison four times (not all during her current sentence): Texas State Prison, 1979 - out three days; Colorado State Prison, 1980 - out two months; Alderson Federal Prison, 1981 - out two days; and Pleasanton Federal Prison, 1986 - out five and a half months. She was transferred to HSU a few months after her last recapture on the grounds of her 'history of violence and explosive behaviour' and evidence that her last escape was

with 'assistance from the community', was organized and involved payments of money. Brown is the only one of the women at HSU with any history of escape. The ACLU NPP argue that the original request that she be transferred to HSU was denied on the grounds that she did not meet the allocation criteria. ACLU argue that her transfer to HSU was approved (finally by the FBP Director) only after it began to be said publicly that HSU was for politically-motivated prisoners. The implication is that her transfer to HSU was approved to lend the unit security credibility. Brown alleges that at one stage she was told that if she associated with the political women at HSU she would jeopardise her chances of transfer from HSU.

There is a good deal of argument about:

- i) the allocation criteria for HSU; and
- ii) the degree to which there is any evidence that Rosenberg and Baraldini remain committed to and in contact with groups who might break them out of prison (Brown clearly is seriously escape-prone).

It is not contested by FBP that the security assessments for Rosenberg and Baraldini are based on evidence available at the time of their conviction (convictions, statements, alleged affiliations) and that nothing in their subsequent behaviour has given cause for disciplinary action or serious concern. It follows that nothing that these plaintiffs can now do can alter, in the short term, the decision that they be allocated to HSU so long as it exists and no other substitute establishment is available. As lawyers for FBP stated at the 2 June hearing, being a model prisoner is not of itself evidence that a prisoner should not be considered a risk, and only time will alter the balance of considerations which have given rise to their present classification and allocation. They may, FBP argue, have been well behaved for two or four years, but two or four years are relatively short periods in the context of sentences of 40 or 58 years.

The counter-claim is that both Rosenberg and, more so, Baraldini, have both, prior to their transfer to HSU, been held in general population prisons without presenting a problem. They both had access to many more facilities in these institutions, had greater autonomy and privileges (own clothes, jewellery, relatively more visits and letters, welfare programmes, etc) and were allowed contact with many more prisoners. Moreover, they both claim that it has been said to them, in one way or another, that they will never get out of HSU unless they change their political beliefs and/or affiliations. According to ACLU NPP, the FBP guidelines for allocation to HSU:

"rest expressly on the content of a prisoner's ideologies and prior affiliations, whether or not those ideologies or affiliations are current, whether or not the prisoner's associations with the groups whose ideology offends the Bureau are active or passive, whether or not the prisoners' relationship with the organization would suggest that the organization would want to 'free' the prisoner, and whether or not the prisoner's conduct belies a finding that she is not a security threat".

No such assessment can, in the ACLU NPP submission, give FBP a blank cheque to house prisoners in what amounts to 'an underground' (basement) small-group isolation unit. Nor can it permit FBP to keep prisoners indefinitely

at HSU for reasons which are impenetrable and over which prisoners cannot by their own actions exercise any influence.

Finally, both the penal experts called by ACLU NPP - Gordon Kamka and Louisa Brown - both of whom considered all the records of all the women housed at HSU, could see no justification for the mixture of women held at HSU - an escape-risk like Brown, long-term politically motivated but model prisoners like Baraldini and Rosenberg, and another prisoner who as an important witness needs protection - within the same unit. Further, they both testify that prisoners presenting an equal or more serious security risk are being held in general population prisons run by FBP and consider that all the prisoners at HSU could be held elsewhere with much wider privileges and greater personal autonomy.

2.5 HSU regime

FBP maintain that the quality of the regime at HSU is not inferior to that operated elsewhere. FBP acknowledge that the Unit is self-contained: they agree that HSU prisoners are not allowed to have contact with other prisoners held at Lexington (indeed, when for whatever reason HSU prisoners are escorted to any facility within the larger institution, not only are they closely guarded and shackled - handcuffs, black box over handcuff locking mechanisms, ankle chains, etc., but the relevant part of the larger institution is 'locked down'). Nevertheless they maintain that HSU provides facilities and opportunities for work, indoor and outdoor recreation, religious practice and visiting. It is on this basis that they maintain that all basic human needs are adequately met and no Eighth Amendment claim can reasonably be sustained. FBP admit that some aspects of the regime are restrictive (for example, the prohibition on personal clothing), but this is said to be necessitated by the special security considerations.

The regime at HSU indisputably permits less freedom of movement, less prisoner autonomy, less choice of activities, fewer contacts, fewer privileges and less privacy than is normal in FBP institutions and certainly less than prisoners at HSU had in the institutions where they were housed prior to transfer to HSU.

Baraldini, for example, according to her own testimony (video and transcript) was previously housed in the general population at MCC New York and Pleasanton. At MCC she was: allowed to exercise on the roof; had normal visiting; participated in the general educational programme; and was in every other respect treated as other prisoners. While at Pleasanton, though placed initially on a 'close accountability card' (an officer had at all times to carry a laminated card with Baraldini's photograph so that she was subject to continuous observation while out of her cell) she was: taken off the accountability after two months; worked at machine sewing, as a librarian and on vegetable preparation in the kitchen; was able to have association with other prisoners all day; had access to a large outdoors recreation area with walk and running tracks, two tennis courts, volleyball square, etc; had access to an indoor recreation room with pool tables; attended games when visiting teams were present; attended aerobic exercise and yoga classes; enrolled in a vocational training course in tailoring; ate communally with approximately two hundred other prisoners; could use a block office equipped with typewriter; wore her own clothes; had normal telephone access; had unlimited visits which could be taken on most days a

week (she had 37 people on her visiting list); and was subject to no restrictions as to receipt and sending of letters.

By contrast Baraldini asserts that on arrival at HSU, quite apart from the fact that the Unit was physically very restrictive, was subject almost everywhere to camera surveillance and at that time housed only two other prisoners, she was: allowed no personal property except a radio, photo album and five books; was allowed no visits except from members of her personal family (who in her case live in Italy - this restriction continued for 14 months during which time she therefore received no visits other than legal visits); was allowed to correspond only with 15 nominated persons (this restriction was removed fairly quickly, though she asserts that incoming political material was censored); was allowed only two 15-minute phone calls per week; was not allowed to wear her own clothes; was allocated to a dark cell; was allowed to use the recreation area for only one hour per day, at first with no other prisoner, then with one and finally with two others; had to ask staff for any small item (for example, hot water for a hot drink, tampons during menstrual periods, nail clippers, etc); had access to a shower which had no curtain (subsequently provided after ten months); could receive a visit only when no other visit was taking place); was allocated work which involved working in a closet folding boxer shorts for military personnel for eight hours a day (she did this job for nine months until, feeling that she would go mad, she refused to continue it); was subsequently allocated to work the education department computer for which no proper training was provided; had access to no other recreational programme other than with a psychological therapist whose attentions both she and her fellow prisoners totally rejected.

Baraldini's account tallies more or less with that of Rosenberg, though not in every detail. What prisoners choose to focus on depends on what they are prepared to put up with. For example, Rosenberg maintains that she was always prepared to put up with the strip searches which were the concomitant of using the outdoor recreation area because she is so dependent on physical exercise and getting outdoors. However, she maintains that other prisoners have refused to use the outdoor area because they could not bear the humiliating strip searching and the often sexually suggestive pat searches which accompany leaving the cell corridor. Similarly she has used the day room whereas others have not been prepared to because of the camera surveillance. The consequence is that both Baraldini and Rosenberg attest that whereas 'on the street' they used seldom to watch TV, they now spend more and more time doing so in their cells. Their physical and mental worlds are, they say, shrinking.

2.6 Staff-prisoner relations

FBP maintains that though staff at HSU are neither specially selected nor trained for HSU, they have to be mature, experienced personnel. They are professionals, trained to treat prisoners at HSU the same as all others with respect and dignity.

HSU prisoners maintain that the claustrophobic atmosphere in the unit, the lack of privacy, the incestuous nature of relations within the unit, and the fact that staff have to engage in repeated tasks deemed by them as well as prisoners to be unpleasant (strip searching, for example) means that relationships are tense and hostile. Rosenberg maintains that

prisoners and staff develop avoidance techniques. Prisoners avoid leaving the cell corridor (because to do so means asking a guard to open the gate) or asking for things (because whether they get them is at the whim of staff) or undertaking activities which involve humiliation or further loss of privacy or dignity. Correspondingly, staff keep their distance, do not fraternise with prisoners, are hostile. The most disturbing aspect of this 'social distance' syndrome is prisoners' stated unwillingness to report sickness or psychological problems to medical and psychology staff. To do so, they maintain, means revealing information which gives staff greater power over them and which would enable them to judge how 'the experiment' of HSU is affecting them. This syndrome explains why the ACLU NPP's expert witness, Dr. Richard Korn, refused to say in his report which prisoners were suffering from which of the symptoms he described. To have done so - and his failure to do so was criticised by FBP's experts and lawyers as evidence of the unspecific and unreliable nature of his testimony - would, in his judgement, have breached the confidence for which the prisoners he interviewed had asked.

Some staff have broken through this alleged barrier. Prisoners refer to one member of staff who was rapidly removed for failure to maintain hostile distance. Unit Manager Figlestahler maintains that a member of staff was removed for unprofessional conduct, 'horseplay'. He absolutely denies that any member of staff has engaged in sexually suggestive behaviour, voyeurism or verbal hostility. He admits that prisoners have made such accusations but, on investigation, these were found to have no foundation.

2.7 Prisoners' health

ACLU NPP's expert, Dr. Richard Korn, made two visits to HSU - in August 1987 and again in November 1987. Dr. Korn concedes that the physical standards of HSU - good-sized cells, a 'large and impressively equipped recreation room' (the day room), the clean environment - are above average, but because control by staff of prisoners within HSU is virtually total, and prisoners feel that no area is 'theirs' the quality of the facilities is negated. Prisoners will not use most of the facilities.

Dr. Korn lists the following aspects of the regime which he argues are detrimentally affecting prisoners' psychological well-being:

- i) depersonalizing factors - the government-issue clothing, the absence of personal decoration and property, books which prisoners ideologically identify with, etc;
- ii) lack of prisoner autonomy (enforced dependency and infantilisation) - the sanitary towel saga, the refusal to allow prisoners to undertake educational courses of their choice;
- iii) sexual abuse and humiliation - repeated strip searching;
- iv) hopelessness - prisoners' lack of control over their transfer to and out of HSU;

Taken together these factors have, argues Dr. Korn, had psychological repercussions: feelings of claustrophobia; chronic suppressed rage; depression, sometimes severe; hallucinations; and chronic psychological

withdrawal and apathy. The symptoms are: loss of appetite; weight loss; exacerbation of pre-existing medical problems; physical malaise; visual disturbances; dizziness; heart palpitations. Dr. Korn argues that these symptoms are directly attributable to the conditions and regime at HSU which, he argues, are avoidable and indefensible.

Following his second visit to HSU in November 1987, Dr. Korn recorded that his first visit and the ACLU intervention had had paradoxical consequences. The visits had provoked optimism amongst the prisoners because of FBP's indication that HSU would shortly close. However, it had since been indicated that there were no immediate prospects of closure and only minor cosmetic changes had been made to conditions in HSU. The 'major stressors', of which Dr. Korn stated by far the most important was the inability of the women to do anything to get out of HSU, had not changed and seemed to be even more hopeless. Prisoners also reported that staff hostility had increased since the prisoners' complaints had been investigated. Dr. Korn concluded that the symptoms he found in August had been exacerbated and that 'the physical and psychological condition of the women had deteriorated to the point of danger'.

Korn's findings are challenged by HSU's psychologist, Dr. Simpson, and the FBP's independent medical expert Dr. Logan. Dr. Simpson states that the HSU prisoners are in a good state of health and that the symptoms outlined by Korn have not been reported internally. Dr. Logan criticises Dr. Korn's report because it does not attribute specific symptoms to particular prisoners (the reason for this is that the women did not wish evidence to be furnished to FBP as to their personal reactions to the HSU regime on the grounds that it would fuel the 'experiment', result in increased loss of personal autonomy and give staff additional power over them).

The personal declarations of Baraldini and Rosenberg, and my own interview with Rosenberg, provide support for Dr Korn's assertions. Baraldini, on video, breaks down and sobs on two occasions during her interview. She complains of insomnia and inability to concentrate - says that whereas she was a voracious reader, and continued to be so at Pleasanton, she now finds it difficult to read more than a book a week. She also admits that she has begun to contemplate suicide and explored ways of achieving her own death. She reports that she is in a very depressed state but nevertheless resists talking to HSU psychologists and medics. Rosenberg does not talk of suicide but similarly reports weight loss (20 lbs since being in HSU), insomnia, inability to concentrate, depression, general loss of physical health, etc.

Further evidence about the prisoners' health is provided by Dr. Stuart Grassian, a psychiatrist with experience of secure hospitals, who interviewed the three plaintiffs in Spring 1988. He maintained that he could find neither from their records nor interviews any evidence in Rosenberg or Baraldini of psychological disturbance prior to their transfer to HSU. Grassian found symptoms in all three plaintiffs of: sensory distortions: affective disturbance (panic attacks, apathy, suicidal thoughts, loss of concentration, etc); disturbances of thought-content (obsessive preoccupations with own bodily state, etc). Grassian went into considerable detail in his evidence into the particular psychiatric symptoms of each plaintiff. he concluded that 'HSU confinement has resulted in severe psychological harm which appears to be worsening'.

3 CONCLUSIONS

HSU is a small-group isolation unit operating under conditions of the very highest security. It is inconceivable that within an organization as professional as FBP it could have been constructed without careful planning and a well worked out mandate, the details of which have not been revealed in Baraldini v. Meese. This lends credence to the suggestion that it was intended as an experimental control unit. However, if intended as an experiment, the contours of the experiment appear to have wilted over time under mounting public pressure. This probably explains the amendments to conditions at HSU and modifications to the regime which, over time, have resulted in the criticisms of arbitrariness and capriciousness.

Allocations to HSU and prisoners' inability, through their own behaviour, to secure transfer from HSU, are bound to promote feelings of hopelessness. Prisoners feel and are trapped by designations over which they have no control. It is difficult to escape the conclusion that several women held at HSU, including Baraldini and Rosenberg, could be held at other FBP institutions and have successfully been so held. There is also evidence that other prisoners, who present equally and more serious a threat, are held at other institutions. There is no evidence that Baraldini and Rosenberg present an active escape risk or that they are in touch with groups who might break them out. Further, they present absolutely no control problem within prison. Finally, were there evidence that they, like Brown, were an active escape risk, they could be subject to special measures while in the general population - such as the special accountability card system to which Baraldini was subject briefly whilst in Pleasanton. I conclude therefore that there is no need for these prisoners to be at HSU (which has always been and is grossly under-used and therefore expensive) and, indeed, no need for HSU.

The conditions and regime are deliberately and gratuitously oppressive. The constant and unjustified use of security chains, the repeated strip searching, the almost total lack of privacy, the claustrophobic lack of sensory stimuli, freedom of movement, possessions, choice of activities and incestuously small range of contacts cannot be other than debilitating. Whereas most small security units compensate for any necessary physical limitations by granting prisoners extra privileges and greater autonomy, the reverse appears to be the case at HSU.

There is overwhelming evidence that the prisoners at HSU have deteriorated physically and psychologically during their custody there. There has to be a prospect that one or more will finally resort to suicide should their custody at HSU be prolonged.

I conclude therefore that HSU should close forthwith. Whatever regime and physical arrangements emerge at the new maximum security prison at Marianna, Florida, they should not replicate HSU.