THE WOMEN'S HIGH SECURITY UNIT IN LEXINGTON, KY

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By Jan Susler*

This article centers on Baraldini v. Meese, 691 F.Supp. 432 (D.D.C. 1988), a case that arose as a result of Congressional and public inquiry into the conditions at the Federal Correctional Institution at Lexington, Kentucky, Female High Security Unit (“Lexington HSU” or “the HSU”), a subterranean unit housing a small population of political and social prisoners in a segregated and highly restricted setting of small group isolation. The combination of public pressure and Congressional inquiry produced only minor changes in the conditions. A team of lawyers filed suit on behalf of three women, Silvia Baraldini, Susan Rosenberg, and Sylvia Brown, seeking immediately to enjoin continued placement in the HSU. The suit asserted that placement in the unit violated the prisoners’ First Amendment rights of expression and association, that placement without prior hearing violated Fifth Amendment due process rights, and that the conditions violated the women’s Eighth Amendment right to be free from cruel and unusual punishment.

A correctional psychologist concluded after evaluating the Female High Security Unit at Lexington HSU:

1. The team of lawyers included Jan Susler and Michael Deutsch, Peoples Law Office, Chicago, IL; Adjoa Aiyetoro and Alexa Freeman, ACLU National Prison Project, Washington, D.C.; Elizabeth Pink, Brooklyn, NY; Mary O’Melveny, New York, NY; Margaret Ratner and Joan Gibbs, Center for Constitutional Rights, New York, NY.

2. Susana Rosenberg and Alejandrina Torres were the first to arrive at HSU on May 7, 1987. The Bureau of Prisons (“BOP”) rejected her for placement after the first referral in spite of her numerous escapes. She has no political affiliations. Likewise, Debra Brown, the only woman in the U.S. facing three death sentences, was the fifth prisoner placed in the unit on January 15, 1987. Two other women arrived shortly before the unit closed: Bonnie Kelley, placed as a witness protection case, not a high security case, based on her cooperation with the government against a co-defendant; and Lynette Fromme, assigned following her conviction for a walk-away escape from FCI Alderson, W. Va., which was not alleged to have had assistance from outside groups. These social prisoners chose not to participate in the litigation.

3. The development of psychological syndromes resulting from isolation has been documented in the 19th and early 20th centuries in Europe and with U.S. prisoners of war in Korea. See Stuart Grassian, A REVIEW AND DELINEATION OF A CLINICAL SYNDROME (unpublished). Such brainwashing techniques have also been used in Korean and Chinese prisons. See Richard Korn, The Effects of Confinement in HSU, August, 1987, 15 SOCIAL JUSTICE 8-19 (Spring, 1988).

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This program sets up a hierarchy of objectives. The first of these is to reduce prisoners to the state of submission essential for their ideological conversion. That failing, the next objective is to reduce them to a state of psychological incompetence sufficient to neutralize them as efficient, self-directing antagonists. That failing, the only alternative is to destroy them, preferably by making them desperate enough to destroy themselves.

Under the laws of the United States, the government can imprison those convicted of crimes, and where there is evidence that a prisoner has posed a threat to security in previous institutions, can increase security. However, labelling a prisoner a security threat based solely on associations she had prior to conviction with organizations called “terrorist” by the government is unconstitutional. Prison officials may impose restrictions tailored to meet real threats to security, but may not impose restrictions based on a prisoner’s political beliefs or associations, or based merely on speculation and conjecture. As Alejandrina Torres was placed in the unit on May 7, 1987. The Bureau of Prisons (“BOP”) rejected her for placement after the first referral in spite of her numerous escapes. She has no political affiliations. Likewise, Debra Brown, the only woman in the U.S. facing three death sentences, was the fifth prisoner placed in the unit on January 15, 1987. Two other women arrived shortly before the unit closed: Bonnie Kelley, placed as a witness protection case, not a high security case, based on her cooperation with the government against a co-defendant; and Lynette Fromme, assigned following her conviction for a walk-away escape from FCI Alderson, W. Va., which was not alleged to have had assistance from outside groups. These social prisoners chose not to participate in the litigation.

The third plaintiff, Sylvia Brown, was placed in the unit because of a history of escapes from several prisons. Brown was
drina Torres, Susan Rosenberg, and then Silvia Baraldini, the first women to be placed in the Lexington HSU, had no record of posing a security threat in prison, but instead were political activists affiliated with radical groups. The treatment of these women indicates that the United States treats prisoners differently — in fact, inhumanely — because of their political affiliations and beliefs.

In Baraldini v. Meese, Judge Barrington D. Parker accepted the claim made by plaintiffs Baraldini and Rosenberg that they had been placed in the HSU solely because of their associations with groups identified by the government as “terrorist,” and rejected the BOP’s claim that the plaintiffs were assigned to Lexington HSU because they posed a security threat — a threat of escape by external assault on the prison from outside groups.4 The government was unable to show that assignment to the high security unit was “an exaggerated response,” in violation of their First Amendment rights.5

The conditions in the unit demonstrated that the program was designed not to thwart external assault to free the women but to effect their psychological and ideological breakdown. The restricted sensory environment, small group isolation, ill-fitting clothing, limited and censored reading material, shackle and handcuffing, and strict limitation on telephone calls and visitors, as well as strip

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searches, patdown searches, voyeurism and general harassment by guards, had little or no relation to the government’s stated objective of preventing escape.6

The placement of these women was suspect not merely because their prison records did not warrant tight security, but because other women with prison disciplinary records, with histories of escape, and with equally as lengthy sentences were not placed in the unit.7

5. Id. at 442-444.
6. Id. at 444. The plaintiffs also claimed that conditions at Lexington HSU violated the Eighth Amendment prohibition against cruel and unusual punishment. While the inhumaneness of the prisoners’ treatment is analytically distinct from the First Amendment freedom of association issue, and the court rejected the Eighth Amendment claim (Id. at 447), the conditions were nevertheless punitive, indicating the punishment of these prisoners on the basis of their political associations and beliefs.
7. Id. at 448. Deposition of FCI Pleasanton Warden Rob Roberts 179-180 (May 24, 1988); Deposition of BOP Assistant Director Gil Ingram 31-32 (May 26, 1988); Deposition of BOP Southeast Regional Director Gary McCune 56-59 (May 27, 1988). All depositions, declarations, memoranda, letters, post orders, transcript references and testimony refer to evidence presented in Baraldini v. Meese, 691 F. Supp. 432 (D.D.C. 1988), unless otherwise noted.
10. The U.S. penitentiary at Marion, IL is the maximum security prison in the federal system. Since 1983, it has been on lockdown. The men are confined to their single cells over 22 hours a day, allowed no contact visits, and have no access to programs. Policies at Marion include “cavity-searches,” forced digital probes of the rectum (random in all units except the Control Unit, where it is routine and performed without probable cause), and shackling prisoners spread-eagled to concrete bunks fitted with metal rings for this very purpose. Conditions at Marion were sufficient to warrant an observer from Amnesty International. See note 72 and accompanying text.
11. Alejandrina Torres is a Puerto Rican independentista whom the government says is a member of the FALN, Fuerzas Armadas de Liberacion Nacional (Armed Forces of National Liberation). Both Rosenberg and Baraldini are said by the government to be associated with the FALN as well as other political organizations.
government to be “the Achilles Heel of the United States.” In reaction to militant opposition, the U.S. government has often resorted to violent action. Examples include the 1937 massacre at Ponce; the violent suppression of the 1950 Nationalist uprisings; and the imprisonment in the 1950s in U.S. prisons of many who took militant nationalist actions — including Rafael Cancel Miranda, Oscar Collazo, Irving Flores, Lolita Lebron, and Andres Figueroa Cordero — many who led the party — including Pedro Albizu Campos and Juan Antonio Corretjer — and thousands who merely held Nationalist sympathies.

In 1960, the FBI formalized its domestic counterintelligence program, COINTELPRO, to destroy the independence movement both in Puerto Rico and the U.S., stating its interest to be in disruption, not “mere harassment.” Agents proceeded to create factionalism by planting defamatory articles in newspapers, collecting intelligence on the personal lives of movement leaders, and preparing divisive and defamatory false letters.

Attacks on the independence movement are ongoing, and include the maintenance by the Puerto Rican police of files on thousands of supporters of independence, labeled by the police as “subversives”; the convening of U.S. grand juries to “investigate” the FALN and concurrent imprisonment without charge of subpoenaed independence activists who refused to testify, invoking a principle of non-cooperation with the government's attempts to destroy their movement; and the prosecution in the U.S. of public independence activists and militants for the expropriation of seven million government-insured dollars, following years of highly intrusive and illegal video and audio surveillance.

The U.S. has developed a strategy to repress such movements, turning to a form of domestic counterinsurgency. In 1978 in Puerto Rico, military and counterintelligence experts from countries experienced in counterinsurgency, including those who implemented efforts to destroy the Red Army Faction in West Germany, the Tupamaros in Uruguay, and the Irish Republican Army were called together to a secret conference to consult with the U.S. on its “problem” in Puerto Rico. From this conference emerged a strategy for Puerto Rico which envisioned the extensive use of high technology and electronic surveillance, the criminalization of pro-independence activity, the use of unprecedented “security” measures at trials of independentistas, denial of the movement’s access to the media, and isolation of prisoners to separate them from their movement and deny them their political identities.

The Black liberation movement, from Martin Luther King to Malcolm X to the Black Panther Party (“BPP”), was also targeted by the FBI’s COINTELPRO program, in a design to “expose, disrupt, misdirect, discredit, or otherwise neutralize the activities of black nationalist hate-type organizations and groupings, their leadership, spokesmen, membership and supporters.” The then FBI director, J. Edgar Hoover, viewed the BPP as the “single greatest threat,” which should become the subject of imaginative and hard-hitting counterintelligence measures aimed at crippling the BPP.

COINTELPRO tactics used against the Black Liberation Movement, the Puerto Rican Independence Movement, and the American Indian Movement shared common features: surveillance and intelligence gathering, fabricated correspondence, false propaganda, disinformation, false reports, infiltration by agent provocateurs, snitch-jacketing, etc.

13. Nationalist Party members and sympathizers who had gathered in Ponce to peacefully protest the jailing of the Nationalist leaders and commemorate the abolition of slavery were gunned down in the street by police operating under direct orders from the U.S. colonial governor. The death toll was 21, with 150 wounded. See generally Arthur Garfield Hays, American Civil Liberties Union, REPORTS OF THE COMMISSION OF INQUIRY ON CIVIL RIGHTS IN PUERTO RICO (July 17, 1942).
14. These five patriots served, from 25 to 29 years each in U.S. prisons. The inhumane conditions visited upon them and their loved ones, because of their pro-independence beliefs and associations, include placement in the most maximum security prisons available, or in the most maximum security units in other prisons; deliberate withholding of medical care (which in the case of Figueroa Cordero permitted cancer to spread); and banning family contact. Figueroa Cordero was released only months before he died of cancer. His release and the subsequent release of the four in 1979 were obtained only after an international human rights campaign on their behalf.
16. “As part of our continuing program to disrupt the militant subversive groups seeking independence for Puerto Rico, the New York Office prepared a letter attacking one of the leaders of the Nationalist Party of Puerto Rico. The letter was written as though it were from a member of the Movimiento Pro Independencia de Puerto Rico (MPIPR) and was mailed anonymously on July 12, 1966 from New York City to selected nationalists in both Puerto Rico and New York City. These two organizations are the largest and most dangerous of the pro-independence groups.” U.S. v. Alejandro Torres, et al., No. 83-CR-0494, Appendix at 7 (W.D.N.Y. 1983) (petition for dismissal or removal of criminal charges and other relief under international law), citing FBI Memorandum (August 5, 1966).
fabrication of evidence, and assassination. An FBI memo spelled out the goals of destroying the self-determination efforts of Black people, including “preventing the rise of a messiah,” preventing leaders from gaining respectability by discrediting them, and preventing the development of organizations, especially among youth.

Pursuant to the COINTELPRO program, Panther leaders were murdered (Fred Hampton and Mark Clark were killed as they slept in their own beds by Chicago police and State’s Attorney’s police, who had received a diagram of the apartment where these men slept from an FBI informant provocateur) and many were framed with criminal charges which have resulted in two decades of imprisonment, including Geronimo ji Jaga Pratt, Herman Bell, Albert Nuh Washington, Anthony Jailil Bottom, Dhoruba al-Mujahid Bin Wahad (formerly Richard Dhoruba Moore), Sundiata Acoli, and sn Clark Squire. Treated more harshly than non-political prisoners, these men have been placed at the most maximum security prisons available, including USP Marion, isolated in segregation units for years on end, and transferred frequently between prisons.

No Pedestal Here: The Focus on Women and the Creation of HSU

The late 1970s and early 1980s witnessed a greater number of women in federal prison for politically motivated acts related to the Puerto Rican independence movement and the Black liberation and anti-imperialist struggles. Although there was no reason the Bureau could not integrate these women into general population, it refused to do so. Instead, it created two options: housing the sentenced women in the Metropolitan Correctional Centers, pretrial detention facilities designed for short-term stays, or placing them in Davis Hall at FCI Alderson, W. Va., and later in Davis Hall’s pre-HSU experimental unit, the Cardinal Unit. Virtually all the women convicted in 1980-81 of FALN related activity have been held in one or both of these alternatives. However, the lack of programs and other inadequacies, including the neglect of the women’s health in the restrictive settings, combined with a public human rights campaign waged by the Puerto Rican independence movement and its supporters, led the Bureau to abandon these options. Many of the politically-affiliated prisoners and prisoners of war were ultimately placed in the general population at the Federal Correctional Institution, Pleasanton, in Dublin, CA, where they have since functioned without incident in this open environment.

Prison officials effectively conceded that treatment of these women would be unrelated to their in-prison conduct, by continuing to seek a more restrictive and isolated setting in spite of the women’s exemplary conduct. On October 29, 1986, this restrictive setting became a reality — the Female High Security Unit (HSU) opened in the federal prison in Lexington, KY. This prison within a

Retaliatory prison conditions for political people are part of the U.S. government’s historical efforts to destroy those who oppose the U.S. government.

prison apparently had as one of its purposes to isolate and break women members of militant movements who the government would call “terrorist.” BOP spokespersons readily admitted to Congress

31. Lolita Lebron was in Davis Hall, as were Assata Shakur and Rita (Bo) Brown in the 1970s. In the 1980s, the Bureau of Prisons instituted the Cardinal Unit — electronically monitored cages housing only Maria Haydee Beltran Torres and Ida Luz Rodriguez, completely isolated from all other prisoners (and even from each other at first) for close to one year. The women were confined to cells 24 hours a day, deprived of all programming, all human contact, and much needed medical attention. The women’s placement in the Unit was not based on their in-prison conduct, which had been exemplary. Rather, they were assigned because of their political beliefs and associations (the government claims they are members of the FALN).

32. Deposition of former Bureau of Prisons Director, Norman Carlson (May 27, 1988).

33. The women convicted of FALN-related activity assumed the position of prisoner of war under international law, citing their status as combatants in an anti-colonial war against the U.S. See U.S. v. Maria Haydee Beltran Torres, No. 77-CR-0680 (S.D.N.Y. 1977); U.S. v. Carlos Alberto Torres et al., No. 80-0736 (N.D. II 1980).

34. It is significant that the government chose to perform this experiment on women, which appears to be guided by two sexist notions. First, officials seemed to believe that political women would be easier to break than their male counterparts. Second, there seems to be the idea that women who break with the traditional role in this patriarchal society and choose instead to fight for a non-exploitative society warrant special punishment, to “cure” them of their “errant ways.” This also makes examples of the women and seeks to thereby deter other women from following in their footsteps.


25. FBI Memorandum from Director J. Edgar Hoover (March 4, 1968), reprinted in Taylor & Van Houten, COUNTERINTELLIGENCE at 51-64.

26. Hampton v. Hanrahan, 600 F.2d 600 (7th Cir. 1979), settled in the appeal for $1.85 million.

27. "sn" denotes a Slave Name.


29. See generally, CANTA JAIL THE SPIRIT.


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and to the press that the HSU was designed to deal with “terrorists.” To this end, the BOP drafted criteria for placement in the Unit:

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... is a factor considered by our staff in assessing the security needs of any inmate.

With these criteria, the government could effectively punish prisoners based on their “affiliation[s], association[s] or membership[s].” And under such criteria, the BOP justified the disparate treatment of the women at Lexington HSU.

The Women of Lexington HSU

In accordance with the government’s underlying purpose at HSU, Alejandrina Torres was one of the first two women placed in the unit. She had received a 35-year sentence for seditious conspiracy — conspiring to use force to oust the U.S. from Puerto Rico — and related charges. The conspiracy involved the FALN. She and her three codefendants were alleged to have planned extractions to finance armed actions against U.S. military sites, conspired to free an FALN member from prison, and stockpiled weapons and explosives. The government has stated that Torres’ offense and her political affiliation are indistinguishable.

For similar political reasons, the government placed Susan Rosenberg in the HSU at the same time. The initial document recommending her transfer to the unit states:

Rosenberg has been associated with the FALN, Black Liberation Army, and other terrorist groups. She also was thought to have been involved in an [sic] 1981 Brinks Armed Car Robbery and has previously been linked to the Joanne Chesimard [Assata Shakur] escape in 1979. She also has threatened in open court to take her armed revolution behind prison walls.

Rosenberg is serving a 58 year sentence for possession of weapons, explosives and false identification.

Likewise for Silvia Baraldini, an Italian national anti-imperialist whose initial transfer document states:

Ms. Baraldini is a member of the May 19th Communist Party which is sympathetic to the radical groups including the New African Freedom Front and the FALN. She participated in the successful 1978 escape of JoAnne Chesimard [sic] from the New Jersey State Women's Prison. Members of her group have participated in numerous armed robberies where police officers were wounded or killed.

Baraldini is serving 43 years — 3 for criminal contempt following her refusal to collaborate with government efforts to secure her testimony at a grand jury investigating the FALN and the Puerto Rican independence movement; and 40 for a RICO (Racketeering Influence Rupture Organizations) conspiracy, for her participation with a group waging armed actions in the name of ending oppression of Black people within the U.S. She was convicted of participating in the prison escape of Assata Shakur, otherwise known as Joanne Chesimard. The other women who comprised the tiny population seem to have been placed in the HSU to mask the political nature of the unit.

The Conditions at the Lexington HSU

The treatment of the women at Lexington HSU illustrates government imposition of strict security measures in an exaggerated response to its biased beliefs about prisoners with left political affiliations. Moreover, the incarceration of these women was demonstrably more restrictive than that of prisoners serving equally lengthy sentences, yet who lacked similar political associations, even where those non-political women had histories of escape. Designed to house 16 women, the unit never held more than seven, and for the bulk of its two year life held only five.

The physical layout of the prison was calculated to demoralize the prisoners. Built in a basement, virtually no natural light penetrated. Metal grates covered the few windows, blocking out any light and obscuring the view to the outside. The women could not freely walk about

40. Baraldini, 691 F.Supp. at 436.
41. Id. at 436.
42. Shakur and the Black Liberation Army she was alleged to be part of were targets of the FBI’s COINTELPRO counterintelligence program. The campaign focus on Shakur began in 1971, culminating in her violent capture in 1973 (she was seriously wounded by police bullets). She was acquitted of several felonies, including bank robbery and killing a police officer. Then in 1977, following a trial held amidst hysterical security measures and inflammatory media reports, she was convicted of assault with intent to kill a New Jersey state trooper and of being an accomplice in the death of another trooper, and remanded to the Clinton Correctional Facility for Women in New Jersey. It was from this prison in 1979 that she was spirited away from her isolation cell. Shakur resides in Cuba, where she has been granted political asylum. See generally Assata Shakur, ASSATA: AN AUTOBIOGRAPHY (1987).
43. Out of apparent concern for the transparent political nature of the HSU, the BOP initially placed two social prisoners in the unit. Two other social prisoners were transferred to HSU near the end of its existence. See note 2.
the small living space. A dozen or more surveillance cameras watched their every move. One hour a day they were allowed into an outdoor concrete recreation area, ringed by bricks and high wooden walls, equipped with a video surveillance camera but no recreation equipment, and accompanied by a guard. The unit also lacked programs and productive work opportunities.

The women described their harassment and sexual assault by prison guards. Following every recreation hour, female guards required the women to submit to a strip search. The shower, within the range of a camera, for close to a year lacked a shower curtain. At times, male guards stood and watched them shower, and would walk into the women's cells unannounced as the women sat on the toilet or were in various states of undress. Male guards inappropriately pat-searched the women frequently, termed "personal patdown searches" by the court. In addition, the women were shackled, handcuffed and accompanied by four prison guards on their scheduled visits to the prison doctor and dentist, followed by a strip search upon return to the unit. Medical attention was afforded only after long delays, and even then was delivered while shackles were in place and while a male guard was at their side or within eyeshot — even for procedures which required undressing.

The rules prohibited contact with prisoners other than those few in the HSU, though the prison which housed the HSU contained over 1,000 prisoners in a minimum-medium security general population. The rules also prohibited most contact with anyone outside the unit — phone calls were limited to two brief calls a week, and visits restricted to immediate family. This worked a special hardship: Baraldini's immediate family lived in Italy, and Rosenberg is the only child of elderly parents in New York. The government's definition of immediate family narrowed the possible visits in Torres' case, ruling out her son-in-law and grandchildren. The hours of visitation were restricted, as was the space available for visitation. Contact by mail was also restricted; incoming mail, including that containing political literature, was often rejected or just never delivered.

The room temperature was inadequate in winter, and the staff did not provide appropriate clothing. The women were given drab beige uniforms, culottes, so that they would look "feminine." Fire safety was not accommodated. Hot water was rarely available for bathing.

The attitude of the guard staff toward the women varied between harassing them and ignoring them. The women were completely dependent on the guards for their every need, including having to ask for sanitary napkins one or two at a time, or moving from the cell area to the day room area of the unit. Guards taunted the women that they would never leave the HSU, telling them they had one way tickets. The women were systematically deprived of sleep during one three month period. These conditions clearly had no rational relationship to the Bureau's stated purpose of preventing escape from external assault by "terrorist" groups. A psychiatrist hired by the Bureau as an expert witness arrived at the same conclusion.

Special limitations applied to the HSU that pertained to no other federal prison. No other prison in the BOP is closed to the public, as was Lexington. Even at Marion, the highest security prison for men in the system, the Bureau, needing to respond to public pressure about rampant human rights violations there, regularly hosts public relations tours from high school and university classes and other groups. Yet Bureau officials rebuffed requests for delegations to the HSU from the National Lawyers Guild, the American Public Health Association, a group of prominent women from Kentucky, and others, claiming the unit was not open for public inspection. Also unlike Marion, journalists were either turned away completely, or had their integrity impugned, being told they could not bring their tape recorders or cameras lest they smuggle contraband. Furthermore, HSU was the only maximum security prison for women in the federal system. At other BOP federal correctional institutions with general populations of women (including women with equally lengthy sentences and convicted of violent crimes and escape), conditions were substantially less restrictive. The women freely move about within the compound; have access to outside recreation over four hours daily (including team activities); are strip searched only after

45. Testimony of Susan Rosenberg, Transcript at 26-27 (June 7, 1988); Deposition of Silvia Baraldini at 55 (May 31, 1988).
46. Declaration of Silvia Baraldini (March 25, 1988).
47. Baraldini, 691 F.Supp. at 444.
48. Id. Officials modified this policy just before the lawsuit was filed, to permit "random" as opposed to routine strip searches. Id. at 445.
49. Id. at 444.
50. Id.
51. Id.; Declaration of Silvia Baraldini (March 25, 1988).
52. Id. at 444.
53. Letter to Jan Susler from Alejandrina Torres (February 26, 1987).
54. Declaration of Susan Rosenberg (March 30, 1988); Deposition of Lexington Warden Larry DuBois (May 23, 1988).
55. Deposition of Silvia Baraldini (May 31, 1988); Testimony of Susan Rosenberg, Transcript at 62-63 (June 7, 1988).
56. Declaration of Sylvia Brown (May 12, 1988); Testimony of Susan Rosenberg, Transcript at 64-66 (June 7, 1988).
57. Declaration of Susan Rosenberg (May 12, 1988).
59. Id. at 445.
60. "Because we are allowed no personal property, not even our own sanitary pads, I must ask the guards for sanitary products constantly which is degrading." Declaration of Silvia Baraldini (March 25, 1988); See also Deposition of Plaintiff's Expert Louisa Brown (May 31, 1988).
61. Testimony of Susan Rosenberg, Transcript at 76-77 (June 7, 1988).
63. Id. at 443-444.
65. See, e.g., BOP Director Quinlan letter to NLG executive director Michael Cowan, BOP Director (January 25, 1988); Quinlan letter to NLG attorney Peter Erlinder (December 14, 1987); Lexington Warden R.L. Matthews letter to Rene Bideaux, Deputy General Secretary, General Board of Global Ministries, United Methodist Church (February 26, 1987).
contact with people from the street; have a variety of work settings to select from and with which to interact (including virtually unrestricted visits from friends and relatives); have access to the phone for 15 hours daily, are permitted to wear their own clothing and possess a quantity of personal property; and are not locked down in their cells, even at night. 66

These policies and restrictions took their toll on the women held at HSU. Reports and testimony from psychology and psychiatry experts documented that they suffered symptoms flowing from the lengthy detention in the restricted environment, otherwise known as small group isolation. The symptoms fell into four categories:

1) Sensory disturbances. They became hypersensitive to external stimuli and often experienced a dysesthetic response. For example, the smell from the food trays disgusted them, their appetites were diminished, and they lost weight. They also experienced perceptual distortions, seeing spots and shapes, often mistaking them for objects.

2) Disturbances of affect. They experienced overt panic attacks and free floating anxiety. This category includes depression.

3) Difficulty in thinking and concentrating. These symptoms include not just an inability to read but to focus one's attention. The disability in one case reached the point of profound apathy and withdrawal.

4) Disturbances of thought content. Here, the women were obsessed with rage as well as with the state of their bodies and minds, fearing the deterioration that was occurring.

The F.B.I. formalized its domestic counterintelligence program, COINTELPRO, to destroy the independence movement both in Puerto Rico and the U.S., stating its interest to be in disruption, not "mere harassment."

Such symptoms in a restricted environment constitute a syndrome which was documented in German literature as early as the late 1800s, and gained some attention in the U.S. after U.S. soldiers were held in small group isolation in Korean POW camps. 67 and was later documented by Amnesty International when in 1980 it denounced the Federal Republic of Germany's small group isolation of Red Army Fraction (RAF) political prisoners. 68

The symptoms experienced by the women at HSU increased with the length of exposure to the restricted con-

These prisons include the Federal Correctional Institutions at Pleasanton, California, Lexington, Kentucky, and Alderson, West Virginia, the three main women's prisons in the federal system existing at the time.


66. These prisons include the Federal Correctional Institutions at Pleasanton, California, Lexington, Kentucky, and Alderson, West Virginia, the three main women's prisons in the federal system existing at the time.

69. In his follow up study, correctional psychologist Richard Korn found that the women had deteriorated to the point of danger. Richard Korn, The Effects of Confinement in HSU: A Follow-Up, November, 1987, 15 SOCIAL JUSTICE 25 (Spring, 1988).


Nevertheless, the Court was clearly troubled by the conditions in the HSU, viewing the BOP’s last minute, insignificant modifications of the conditions not just as too little, too late, but rather a sorry response and “a shameful reflection on the Bureau’s administration . . . . Even though those concessions had been made, the Bureau still operates a unit that in many respects, measures below acceptable standards for federal prisons.” The Court expressed that the “defendants’ sluggish response to plaintiffs’ requests [for medical attention] border very close to neglect”, noted the defendants’ “gross insensitivity,” and concluded that “at times the treatment of plaintiffs has skirted elemental standards of human decency.” The Court also warned the defendant prison officials not to repeat these substandard conditions of the HSU at the new, larger women’s high security unit at Marianna, Florida.

Two factors seem to have influenced the Court in deciding that the Unit “at best meets the bare Eighth Amendment standards.” The first was a recent opinion of the D.C. Circuit substantially limiting application of the Eighth Amendment. Given the decision in Occoquan, Judge Parker was obliged to “determine whether the essential mainstays of life have been denied to the prisoners,” which the Occoquan court specified as “food, shelter, health care and personal security.” The second and possibly more influential factor was the BOP’s promise to promptly close the HSU.

Retaliation and Punishment for Political Beliefs and Associations

The issue arising from the program at Lexington HSU is whether the unit was designed to house women who posed a security threat, or was in fact an isolation camp to break prisoners affiliated with movements and organizations condemned by the government.

The Bureau criteria for placement in the unit purported to be neutral and based on security considerations:

Candidates for placement in this unit are those females whose confinement raises a serious threat of external assault for the purpose of aiding the offender’s escape.

It was neither. Official Bureau statements and the transfer documents of Baraldini and Rosenberg, written by Rosenberg testified that she was told by the HSU unit manager that there was only one way she could win her release from the unit: to give up her political affiliations.

Bureau officials, established that the women were selected because of their political associations, and referred to them as “terrorists.” Defendant BOP officials’ correspondence with congressional representatives and statements to the media acknowledged the women’s politics as a factor relevant to their placement. Every transfer document written by the defendants emphasized Baraldini’s and Rosenberg’s associations with groups the government considered to be terrorist. Moreover, Rosenberg testified that she was told by the HSU unit manager that there was only one way she could win her release from the unit: to give up her political affiliations. The release criteria stated that release would occur when the initially qualifying criteria no longer applied. Where the initially qualifying criteria were one’s political affiliations, the message is clear. Furthermore, the defendants testified that if they received

75. Id. at 446-447.
76. Id. at 447, 449. The FCI at Marianna, Florida is a newly constructed medium-security prison for men. On its grounds is a 34-cell sealed-off building designed and built as a witness protection unit to house informants. Meeting between ecumenical delegation and BOP Director Quinlan (December 17, 1987). The administration of the BOP decided to convert it for use as a high security unit for women and to “transfer the mission” of Lexington to this new location. Baraldini, 691 F.Supp. at 449.
79. Occoquan, 844 F.2d at 839. See Baraldini, 691 F.Supp. at 447 (“. . . plaintiffs have presented problems which should not be ignored but they have not shown that they have been denied the essential mainstays of life . . .”).
80. See Baraldini v. Meese, Civil No. 88-0764 (D.D.C. 1988) Final Order of Judgment, at p. 3 (“That based on the findings of the Court as to plaintiffs’ Eighth Amendment claim, because of the imminent completion and opening of the female high and medium security facility at Marianna, Florida, the Court denies relief for that claim . . .”). The Court also rejected plaintiffs’ contention that assignment to the HSU triggered a Fifth Amendment due process right to a pretransfer hearing on the basis that placement violated other constitutional rights. Plaintiffs were found to have no protected interest in remaining in general population or in a specific prison. Baraldini, 691 F.Supp. at 448.
81. The discussion in this section, as far as it refers to the case, concerned only Susan Rosenberg and Silvia Baraldini, the women placed in the HSU because of their associations. While Alejandrina Torres’ placement was based on her associations, she did not participate in the litigation, and the defendants successfully blocked the plaintiffs from discovery as to non-plaintiffs.
information that a plaintiff were no longer affiliated with the organizations, they would consider releasing them from the HSU.88

A key post order for staff at the HSU informed them that the unit was created for women who warranted higher security because of, among other things, their membership in organizations.89

The defendants claimed that the women were selected because they were escape risks, that the groups the women associated with would assault the prison to free them. Yet the evidence established that neither Baraldini nor Rosenberg had ever conspired or attempted to escape, nor had they actually escaped.90 The defendants even admitted that they had no information of any threat of external assault to free the women, and that they had never possessed any such information.91 In addition, the defendants testified consistently that they had no knowledge about the so-called terrorist groups they claimed these women affiliated with.92 Nor had they taken any action to update information about the women after their convictions.93 The defendants also conceded that women who had actually escaped from BOP custody, including one in a helicopter, were not referred for transfer, or their referrals for placement had been denied. Most remained in general population, while 11 of the 16 cells at the HSU remained unoccupied.94

Plaintiffs' eminent corrections experts concluded after examining the political women's prison files that nothing in their in-prison conduct distinguished them from other women who were convicted of violent crimes, given equally lengthy sentences, and who remained in general population.95

The Court found the criteria for placement in the unit

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**This prison within a prison apparently had as one of its purposes to isolate and break women members of militant movements who the government would call “terrorist.”**

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88. Deposition of Gil Ingram at 55-56 (May 26, 1988); Deposition of Robert Figlesthaler at 169-170 (May 23, 1988).
90. Deposition of Gil Ingram at 31 (May 26, 1988); Deposition of Michael Quinlan at 61 (May 26, 1988); Deposition of Rob Roberts at 153 (May 24, 1988); Deposition of BOP Western Regional Director Jerry Williford at 46 (May 24, 1988).
91. See Post Orders (cited in note 89).
92. Deposition of Gil Ingram at 54 (May 26, 1988).
93. Deposition of Gil Ingram at 154 (May 26, 1988); Deposition of Rob Roberts at 153-154, 155 (May 24, 1988).
94. Deposition of Gil Ingram at 31-32 (May 26, 1988); Deposition of BOP Southeast Regional Director Gary McCune at 56-57 (May 27, 1988); Deposition of Rob Roberts at 179-180 (May 24, 1988).
95. For example, prior to transfer to HSU, plaintiff Baraldini had successfully served 27 months in the general population of the Federal Correctional Institution at Pleasanton, an open, coed prison, where she mingled with hundreds of other prisoners. Deposition of Gil Ingram at 29 (May 26, 1988); Deposition of Silvia Baraldini at 25-26, 33, 37 (May 21, 1988); Deposition of Michael Quinlin at 61-65 (May 26, 1988); Deposition of Plaintiff's expert Louisa Brown at 37 (May 21, 1988); Deposition of Jerry Williford at 35 (May 24, 1988).
97. Id. at 439.
98. Id. at 440. For example, the evidence established that at FCI Pleasanton, the prison operated a close accountability program which, while it protected a woman's movement, allowed her to be on the Wrongful Muster of the population. By FCI Pleasanton Memorandum (December 19, 1984).
Under the first factor, the regulations here, according to the Court, were not neutral but rather focused on the women's political views and associations. Under the second factor, the Court found that Baraldini and Rosenberg had no alternative — only renunciation of their associations could win their release; therefore continued expression and association was discouraged. Third, the government offered no evidence of adverse impact of placing the political women in general population. The women's prior experience in general population and their unremarkable disciplinary records convinced the Court of the contrary. Finally, the existence of "ready alternatives" renders the regulation an exaggerated response.

Clearly shocked by the government's program at the HSU, the Court ended its opinion with these words:

"Consigning 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."

The government's program at the woman's facility was with the women's contacts with groups that might try to free them; regardless of the groups' ideology.

**CONCLUSION**

The government conducted an experiment with this political prison. While the women suffered greatly, they were not broken, and the news of these conditions caused outrage. For example, the Puerto Rican legislature passed a unanimous resolution condemning the U.S. government for violating the human rights of Alejandrina Torres. The U.S. received censure from groups as varied as Amnesty International, members of the European Parliament and the Italian Parliament, the National Lawyers Guild, the American Public Health Association, the United Methodist Church, and the United Church of Christ. Even at the U.S.-U.S.S.R. summit of 1988, the United Methodist Church, the United Church of Christ, the National Lawyers Guild, and the American Public Health Association condemned the treatment of political prisoners in the United States.

102. Id. at 443.
103. Id. at 444, citing Turner, 107 S.Ct. at 2262.
105. Id. at 446.
106. While Torres, the only other political woman in the unit, was not a plaintiff, the Court's order clearly applies to her, and the defendants have so conceded.
107. Rosenberg is currently on a writ of habeas corpus ad prosequendum, in custody at the District of Columbia jail to face trial with five other northamerican political activists for charges related to the bombings of government and military buildings in the Capitol, alleged to have been done to force a change in U.S. foreign policy in Central America and Southern Africa.
108. Plaintiffs' motion to enforce compliance is pending before Judge Parker.
111. Baraldini, 691 F.Supp. at 442.
112. House Resolution 1594 of the Puerto Rican Congress (Session of May 18, 1988).
113. See, eg., letter from 15 members of European Parliament to BOP Director Quinlan (December 15, 1987); Resolution from Regione Autonoma Valle D'Aosta, Consiglio Regionale (February 24, 1988); Letters from NLG Executive Director Michael Cowan to BOP Director Quinlan and Lexington Waterman DuBois (December 22, 1987).
Women's High Security Unit

Soviet media raised the conditions at Lexington’s HSU and the existence of political prisoners in the U.S.1

The government therefore decided to “phase out” the HSU, announcing the intended closure months in advance of the actual closure, apparently in the hope of avoiding further censure. Yet the closure of the HSU brings only another phase of the experiment, not an end. The “mission” of the HSU, the BOP says, is merely being transferred to a new high security unit, this one inside a new men’s federal prison in Marianna, Florida. The mission still involves special, punitive treatment for women political prisoners.

While the newest phase has proved to be above ground, and to have a population of one hundred, the concern for the human rights of the women cannot abate. A high level of attention and pressure from the public had a definite impact on the government’s conduct at the HSU. Just as the decision to close the HSU can be attributed to vocal opposition and the litigation, such vigilance can temper the conditions at the HSU’s successor at Marianna, and influence how the government treats political prisoners in the future.

114. UPI Moscow, “Soviets Charge U.S. Has Political Prisoners,” Washington Post at A21 (May 28, 1988). The newspapers asserting these charges included Pravda, the Communist Party newspaper; Izvestia, the government newspaper; Trud, the trade union newspaper; and Sovetskaya Rossiya, the Communist Party newspaper of the Russian Soviet Republic.
