

April 10, 2014

The Honorable Chuck Hagel
Secretary
United States Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Mr. Secretary,

The undersigned civil liberties, human rights, and religious organizations wrote to you on December 19, 2013 to express serious concerns over two developments at the Guantánamo Bay detention facility (that letter is attached). Shortly before writing, we learned that protocols for managing hunger strikes at Guantánamo had been revised, but the military refused to disclose the changes. We also learned that US Southern Command had decided to stop providing the public with information on the number of detainees engaged in hunger strikes.

Unfortunately, basic information about detainees currently on hunger strike at Guantánamo, including critical details about how the military manages them, remains cloaked in secrecy. The prospect that the number of detainees on hunger strike has increased since we last wrote makes transparency even more urgent.¹

The March 10, 2014 release of a Defense Department document titled “Medical Management of Detainees with Weight Loss” raises additional concerns. Though heavily redacted and replete with inappropriate euphemisms, the document appears to contain the governing protocol for managing hunger strikes at Guantánamo (or “long-term religious fast[s],” as JTF-GTMO now labels them). Much of the information needed to assess thoroughly whether the revised protocol ameliorates any of our moral, ethical or legal concerns remains secret. However, the disclosed portions of the protocol – coupled with [recent allegations](#) that detainees continue to be force-fed in a manner which amounts to cruel, inhuman or degrading treatment – suggest that serious violations of medical ethics, medical care standards and human rights obligations could be commonplace. For example:

- Enclosure 7 (“Enteral Feeding Nursing Note”) reveals that detainees subject to “enteral feeding” continue to be restrained, which can include violent “Forced Cell Extractions” (FCEs) both to and from the restraint chair.

¹ According to recent [comments](#) by Rear Admiral Richard Butler, the number of detainees on hunger strike and approved for force-feeding may have risen from 15 (the number reported on Dec. 2, 2013 – the last day Guantánamo’s public relations team disclosed figures) to as many as “a couple dozen”.

- According to section II.B., all detainees are now being weighed monthly. Those “who are of concern to the medical staff” are weighed more frequently. Any detainee who refuses to consent is weighed “involuntarily.” In practice, we fear that this mandate will lead to an increase in the frequency of often brutal FCEs. Indeed, the protocol explicitly contemplates weighing detainees “while on backboards or wearing shackles.”
- A Defense Department spokesman has [said](#) previously that JTF-GTMO’s protocols for managing hunger strikes “match” those followed by the U.S. Bureau of Prisons (BOP). As we noted in our previous letter, Senator Dianne Feinstein (D-CA) [wrote](#) to you in June of last year challenging that claim, in particular with respect to certain safeguards that BOP follows.² According to section I.B. of JTF-GTMO’s “weight loss” protocol, “[t]he current medical management of detainees with weight loss ... has been developed using procedures *adapted* from the Federal Bureau of Prisons.” (Emphasis added). Nothing about that carefully worded description indicates that the BOP protections are in place at Guantánamo, and reports from detainee counsel suggest otherwise.
- According to section II.E., “[p]reventing [redacted] is important to maintaining good order and discipline in the detention environment, and in protecting detainee health.” If the redaction is a reference to hunger strikes, it could be read implicitly to sanction punitive measures to break or deter them. If it is a reference to public release of hunger strike-related information, it gets the relationship between transparency and detainee welfare exactly backwards.

The [World Medical Association](#), the [American Medical Association](#), the [International Committee of the Red Cross](#), the [Inter American Commission on Human Rights](#), and [United Nations Special Rapporteurs on Torture, on Human Rights and Counter-Terrorism, and on Health](#), all oppose force-feeding – a practice that appears to continue at Guantánamo. It is time to lift the veil of secrecy around hunger strikes, and to provide the public with the information that it needs – and deserves – to understand what is happening and to hold its government accountable. To that end, we reiterate our request that you order JTF-GTMO to resume providing basic information on the numbers of detainees on hunger strike, including how many have been approved for force-feeding and how many have been hospitalized. We further urge you to make public a fully unredacted copy of the current hunger strike management protocol.

² Those safeguards include: a requirement that the facility warden notify a judge if an inmate is to be fed involuntarily, including relevant background and an explanation for why involuntary feeding is necessary; an individualized assessment of how involuntary feeding is to be administered; and a requirement that all involuntary feedings are videotaped. We do not suggest that implementation of those safeguards at Guantánamo would be sufficient to render JTF-GTMO’s hunger strike management protocol consistent with international law.

Thank you for your attention to this important matter.

Sincerely,

American Civil Liberties Union

Amnesty International USA

Arab American Institute

Center for Constitutional Rights

Center for Victims of Torture

The Constitution Project

Friends Committee on National Legislation

Human Rights First

Human Rights Watch

International Justice Network

National Religious Campaign Against Torture

National Security Network

Physicians for Human Rights

Encl.

December 19, 2013

The Honorable Chuck Hagel
Secretary
United States Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Mr. Secretary,

The undersigned civil liberties, human rights, and religious organizations write to express our concerns over two recent developments at the Guantanamo Bay detention facility. In a November 21 letter to the United States Court of Appeals for the D.C. Circuit, the Department of Justice revealed that protocols for managing hunger strikes at Guantanamo have been revised, but the military has not disclosed the new policy and officials have refused to explain the changes. Several weeks later Marine Gen. John F. Kelly, commander of U.S. Southern Command, reportedly ordered detention facility staff to stop providing the public with information on the number of detainees engaged in hunger strikes.

These are steps in the wrong direction and clearly contradict the claim by Joint Task Force Guantanamo (JTF-GTMO) that it “provides safe, humane, legal and *transparent* care and custody of detainees.”¹ There is no legitimate justification for shrouding in secrecy basic information about hunger strikes at Guantanamo.

It is particularly egregious to refuse to make public the revised standard operating procedures (SOPs) for managing hunger strikes, including the associated use of restraints. Current members of Congress, major medical associations inside and outside the United States, international organizations and many of our groups, among others, have objected to the JTF-GTMO response to hunger strikes, especially the abusive use of force feeding. The SOP released in May of this year is inconsistent with medical ethics, encourages sub-standard medical care, and may result in serious human rights violations. The public has a right to know whether the revised policy ameliorates any of these concerns, and, if not, why not.

The Defense Department has said repeatedly that its practices for managing hunger strikes match those of the U.S. Bureau of Prisons (BOP). Senator Dianne Feinstein (D-CA) wrote to you in June challenging that claim on a number of fronts.² Transparency is yet another area where the

¹ See http://www.jtfgtmo.southcom.mil/xWEBSITE/photos/photos/pages/Camp_6.html.

² According to Senator Feinstein, the Defense Department’s force-feeding practices “appear to deviate significantly” from BOP practices, in particular with respect to the manner and frequency with which detainees are force-fed, and the safeguards and oversight in place during forced feedings. See June 19, 2013 letter from Senate Intelligence Committee Chairman Dianne Feinstein to the Honorable Chuck Hagel, Secretary of Defense, available at http://www.feinstein.senate.gov/public/index.cfm/files/serve/?File_id=17585d4b-c235-4f32-b957-50648d4e6252.

practices deviate. The BOP policy for managing inmates who engage in a hunger strike is publicly available on the BOP website. The revised Guantanamo policy remains secret.

With respect to the decision no longer to disclose hunger strike statistics, a spokesman for JTF-GTMO explained that "[t]he release of this information serves no operational purpose and detracts from the more important issues, which are the welfare of detainees and the safety and security of our troops." We strongly disagree. Transparency is necessary to ensure detainees' welfare. A mass protest in a military detention center raises a host of serious concerns, just as would any such protest in a domestic prison. The public should know about hunger strikes at Guantanamo, just as it regularly knows about hunger strikes in U.S. prisons, so that it can effectively play the important oversight role envisioned for it in our constitutional democracy.

The timing of the decision to stop reporting on the number of hunger strikers, including those approved for forced feeding, is almost as troubling as the decision itself. A massive hunger strike that peaked in July at 106 participating detainees had decreased to 11 participants by early November, but is again on the rise according to the latest information provided by the military. On December 2, the last day Guantanamo's public relations team disclosed figures, 15 detainees were hunger striking, all of whom were approved for forced feeding. For the reasons described above, if the number of hunger strikers is increasing, that makes transparency more, not less, urgent.

We are encouraged by the momentum that continues to build towards closing Guantanamo. But as long as the facility remains open, detainees must be treated humanely and in a manner consistent with principles of medical ethics and standards of medical care. To that end, we urge you to make public current versions of all policies related to hunger strike management at Guantanamo, including the associated use of restraints, and to order JTF-GTMO to resume providing basic information on the numbers of detainees on hunger strike, including how many have been approved for force feeding and how many have been hospitalized. Thank you for your attention to this important matter.

Sincerely,

American Civil Liberties Union

Amnesty International USA

Appeal for Justice

Arab American Institute

Center for Constitutional Rights

Center for Victims of Torture

The Constitution Project

Council on American-Islamic Relations

Defending Dissent Foundation

Friends Committee on National Legislation

Human Rights First

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National Religious Campaign Against Torture

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Physicians for Human Rights