

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 forced 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 forced-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 forced 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

Human Rights Watch

International Justice Network

National Religious Campaign Against Torture

National Security Network

Physicians for Human Rights