

# Center For Constitutional Rights

## Criminal Justice Issues and Prisoners' Rights

**<https://ccrjustice.org/home/blog/2015/11/05/friend-court-briefs-filed-experimental-prison-units-lawsuit>**

## Public Facing Advocacy Writing

The CCR blog

CCRs long-standing challenge to the experimental prison units known as [Communication Management Units](#), or CMUs, got an important boost this week with the filing of two separate friend-of-the-court briefs.

The [first brief](#) was filed by the Center for Social Justice at Seton Hall University School of Law. Among other arguments in support of our [appeal](#), this excellent brief details the logic of the Supreme Courts seminal due process cases, explaining that although courts should defer to routine administrative decisions by prison officials, people in prison must still be entitled to procedural protections before being subjected to major and unanticipated disruptions to their lives, such as the unusual, stigmatizing, and indefinite restrictions that come from placement in a CMU.

The [second brief](#) was filed by the Legal Aid Society of the City of New York, the ACLU, and the ACLU of D.C. and focuses on our clients appeal from the district courts dismissal of their damage claims against the Chief of the Counter-Terrorism Unit of the Bureau of Prisons, Leslie Smith.

The damage claims stem from information plaintiffs learned in discovery. After years of litigation, our client [Daniel McGowan](#) learned that he was sent to the CMU *not* merely based on the particularities of his criminal case, as he had been told, but instead due to his correspondence in prison with social justice advocates about environmental and other political issues. Another one of our clients, Kifah Jayyousi, learned through the litigation that the Bureau of Prisons secretly decided against transferring him from the CMU to a general population unit due to the bureaus displeasure with the content of a sermon he delivered to fellow Muslims also held in the CMUs saying that they were being profiled for their faith, and urging them to hold fast to that faith.

Daniel and Kifah sued Smith for his role in the prisons retaliation against their political and religious speech. Their claims were dismissed by the district court because the 1996 Prison Litigation Reform Act prohibits people in prison from seeking redress for mental and emotional injury without a prior showing of physical injury. Legal Aids brief explores the history and purpose of that law, making it clear that the courts must still compensate victims of constitutional violations for the actual injuries they suffer, in our clients case, being banned from any physical contact with their families for years (one of the main features of the CMUs), loss of access to release preparation programming, loss of access to reading materials and other First Amendment opportunities, and stigmatization. As the briefs explain, such injuries go beyond mental and emotional injury and deserve redress.

[View the discussion thread.](#)

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