

AN UPDATED PUBLIC REPORT
ABOUT THE CONTINUING LOCKDOWN AND TORTURE
OF THE PRISONERS AT U.S. PENITENTIARY, MARION

Following the deaths of two guards last October, Marion and Bureau of Prison (BOP) officials placed the prison on permanent lockdown. With help from sixty or so armed guards from other prisons, these officials orchestrated a violent and vengeful assault on the entire prison population, which included the over forty severe beatings and numerous forced finger probes of the rectum documented in our previous report.

Immediately following the injuries and deaths of the guards, officers identified three prisoners as responsible. These three have been tried and convicted in federal court. Some four months and tens of prisoner interviews later, we attorneys are dismayed to have to report that the lockdown and its violence and repression survive at the expense of the prisoners' human rights. The continuing plot to rob the prisoners of their humanity bears no rational relationship to any legitimate security concern. Since October, no prisoner has seen the sun or breathed fresh air. No one has hugged his child or wife or mother, as day long "contact" visits have been forever ended, and in their place are one hour visits over a bugged telephone - the prisoner on one side of a soundproof plexiglass panel - his family on the other. The number of family visits has markedly decreased. Many family members cannot bear to see their loved ones under such conditions, and many prisoners have asked their families not to come, not to go

to the expense of traveling across the country to spend a single hour and not even be able to touch. And since October no church services have been permitted - no group prayer even for those religions which mandate collective worship. The chaplain actually gives communion through the prisoners' cell bars. No one is permitted to go to the law library. No one is permitted to work - there are no jobs. No one is permitted to attend school - there are no classes; there are no rehabilitation programs. Each prisoner, caged twenty-three hours, seven days a week, gets one hour "recreation," supposedly on a daily basis, during which he is let out of the cell into the range area in front of the cell, with nothing to do. The remaining twenty-three hours every single day he is caged with nothing to do - he has no radio and no television; he is limited to three soft cover books. He is made to take his meals in the same small enclosure where he urinates and defecates, where rodents and vermin make themselves at home. One of the only distractions in the day is mealtime, which is often tense. Food is frequently used in conjunction with punishment. Even after hot meals have been made available, prisoners are robbed of the "privilege" of eating warm meals and cooked food. Meals are served in trays with plastic utensils and paper food containers. After the meal, every non-consumable item (i.e. food wrappers and utensils) must be placed on the tray and is then inventoried. One who fails to return a demanded item, even if the tray originally contained no such item, quickly becomes the target, not just of an invasive and degrading strip search of his body and

ransacking of his cell, but often of a brutal and swift beating and then further "official" disciplinary proceedings, which can result in temporary assignment to bag lunches. Furthermore, the nutritional quality as well as the quantity of food seems to have markedly decreased. For weeks many prisoners received only bag lunches - cold bologna sandwiches. Then, after the institution of hot meals, some prisoners elected to go back "on the bag" after they witnessed guards spitting in the trays and found ashes and cigarette butts in their food. Threats by guards that they would poison the food have prompted many prisoners to reject food and elect to do without, rather than risk illness or death from food poisoning.

Since the total lockdown of the prison on October 27, 1983, all movement of all prisoners within the institution has taken place under the most onerous possible conditions. Whenever a prisoner leaves his cell for any reason, whether for a shower, a legal visit, a transfer, or whatever, he is first "strip-searched" in a nasty, aggressive, purposefully humiliating and altogether unnecessary - and therefore illegal - manner, including being required to separately raise his penis and his scrotum, and then spread his gluteal cheeks and bend over, so the guards can peer at his crotch and his anus. A minimum of three guards, all armed with heavy, three-foot long steel-beaded clubs, shackle his ankles with a short chain, and place another chain around his waist, to which he is then handcuffed. They then surround him, clubs in hand and with one guard walking in front pulling the

handcuffs, and lead him to where he is going. These trips and the "searches" are frequently accompanied by verbal and physical harassment, and threats, particularly when the destination is a legal visit..

The shackles, cuffs and chains are not removed during the visit, and, yet, regardless of the fact that the prisoner has not been unchained or out of the close scrutiny of guards at any time, the "search" routine - replete with anus and crotch peering, and threats and gibes - is repeated after the visit or other trip, even when it is only down the range to the shower.

Since the visiting room has been gutted and given way to the construction of non-contact closets, legal visits occur in the gymnasium, where armed guards hover within earshot, no confidentiality is afforded, and an atmosphere of intimidation abounds.

We urge our elected officials to go to Marion, to see for themselves the conditions in which the prisoners are made to live, to talk to those who are the subjects of this unjustifiable campaign.

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For years at Marion, the general population moved about within the prison participating in the industry and programs which once existed there. Those early years witnessed the creation of the infamous Control Unit, where prisoners were locked twenty-three and a half hours each day in closed-front

sensory deprivation cells, for months on end. After many years of litigation challenging the conditions, a federal court finally condemned the BOP practice at Marion and ordered changes:

Modern technological advances are capable of rendering medieval tortures such as the rack and screw obsolete. The potential for psychological and physiological torture is boundless—thus, the emerging role of the Eighth Amendment in our society. A society which takes pride in its commitment to the preservation of human rights must be ever vigilant to protect those rights. It cannot countenance any infringement on those rights which could create inroads into our ordered sense of decency. Accordingly, on the record before it, the Court finds that the use of the closed front cells, the boxcars, violates society's standards of humanity and dignity, and results in the infliction of unnecessary pain and suffering. Thus, it is violative of the Eighth Amendment's prohibition against cruel and unusual punishment. The continued, nonconsensual use of a closed front cell is immediately enjoined. Bono v. Saxbe, 450 F. Supp. 934, 947 (S.D. Ill. 1978).

In an ingenious and illegal turning of the tables, BOP officials have refashioned Marion into one huge Control Unit with a small "honor" unit* - all accomplished, not with the "due

* Since the lockdown, "B" unit has been made an "honor" unit. Transfer into B unit is arbitrarily conferred, and prisoners there enjoy some broader movement and privileges than prisoners in other cell-blocks. For example, they have been known to take some meals collectively in the prison dining room and are on occasion permitted to go to the gymnasium. Even those in this special unit suffer restrictions, such as being shackled during legal visits, that did not exist before the October lockdown.

process" mandated by the court in Bono,* but with only that process to which Warden Harold Miller and Director Norman Carlson unilaterally determined the prisoners were due - swift, hard, physical, psychological summary punishments and deprivations. Except for the three who have been tried and convicted for the injuries to and deaths of the guards, the entire population is being punished, without having committed any wrong. Punishment for no offense is disproportionate, cruel and unusual, and certainly not calculated to produce respect for law and authority on the part of those on whom it is imposed.

"The mission of the Federal Prison System," according to the BOP Summary Statement of Salaries and Expenses for FY 1985, "is to . . . provide for humane incarceration of offenders and encourage offenders to participate in programs and activities that can impact positively on their capability for achieving a crime-free life." The Chief Justice of the United States Supreme Court, Warren E. Burger, announced in Chicago, in January of this year, his view of the need for change, that prisons should be "factories with fences" around them, places where prisoners learn skills to become productive members of society. Yet Marion is excepted from these supposed policies and purposes, singled out as an exception - as the exceptional prison - the end of the line.

*Bono v. Saxbe, supra, at pp. 944-946, orders the provision of minimal procedural safeguards prior to placement in the Control Unit, including a hearing with advance notice, and subsequent to placement therein, including periodic review of the placement.

BOP officials have publicly stated their attitude: "You have to consider the kind of men imprisoned here. They're here because they're vicious; they're here because they're savage."* Norman Carlson himself parroted the characterization of the prisoners as "savage."** Contrary to the myth created and propagated by the BOP, the population at Marion is similar to the population at any federal or state maximum security prison - it includes people convicted of serious offenses and less serious offenses, people with long sentences and with short terms. Not all prisoners are classified as requiring level six security. Mostly, it includes people who will ultimately be released from prison. The "humaneness" in the BOP's mission cannot be found in the Control Unit, where, to replace the steel beds, they are pouring concrete slabs complete with steel rings to enable them to chain prisoners to the beds in their cells.

Over the years at Marion, the prisoners have taken peaceful steps to express their valid complaints about conditions - from seeking an end to the Control Unit and the "boxcar" cells, to being allowed to practice their religions and consult with their spiritual advisors, to stopping guard against prisoner brutality. These expressions have taken various forms, including use of the BOP grievance mechanism, submitting petitions, filing lawsuits,

*Chicago Tribune, October 25, 1983, quoting Dean Leech, Executive Assistant to the Warden at Marion.

**Chicago Tribune, November 8, 1983.

attempting to educate the public about conditions, and seeking Congressional hearings into human rights violations. The following list of concerns was presented to Warden Miller in August of 1980 by a group of prisoners:

- *Allow Native Americans to practice purification rites.
- *Allow religious services in segregation and the Control Unit.
- *Allow Muslims to wear the fez and turban.
- *Stop the use of boxcar cells.
- *Stop guards from harassing and beating prisoners.
- *Extend visiting and make the visiting room more comfortable.
- *Improve medical care.
- *Improve diet by using real meat.

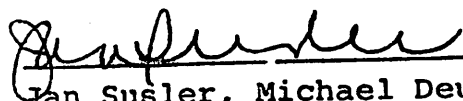
Is there anything on this list that a reasonable person could construe as a threat to security? No - and when the warden refused to respond, the prisoners engaged in a unanimous peaceful work stoppage. Still, rather than address these valid concerns, the warden banned a group of lawyers who were pursuing litigation to address many of these legal problems. He ultimately declared the work stoppage at an end by removing the prison industry and most cultural and educational programs (all of which have long since been curtailed). The states of New York and New Mexico have learned very expensive lessons, that taking the hard line, ignoring the legitimate concerns of the prisoners, can lead to death and destruction. The investigation into the Attica

rebellion of 1971 revealed that the senseless loss of life could have been avoided.

Mr. Carlson must be made to listen to these lessons. The killings in the Control Unit at Marion are a warning which is falling on deaf ears. The Control Unit, supposedly the most secure unit in the entire federal prison system, is a failure. Its repression and outrageous inhumanity is proven to breed violence. Its warped policy is now being generalized, spread like a cancer, to the whole of Marion. Its dehumanization there, too, will reap violence. The BOP ups the ante now by seeking to impose a federal death penalty on prisoners who kill guards. Such a penalty would illogically impose responsibility on an individual for the gaping failure of the government policy which initially provoked the senseless acts of violence. A federal death penalty would not stop future acts of senseless violence. Spending the life of a single additional guard or prisoner is too expensive a lesson, especially when we already know the philosophy has failed. It is time for Congress to act now, before another life is lost, to stop the brutality and repression at Marion, to return Marion to its early status as another level five prison, to reinstitute rehabilitation programs, to inject humanity and sanity into those electronically controlled walls, to foster respect for the law.

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Respectfully submitted,



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