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Honorable Robert Kastenmeier
Attn: Liz Fine
2137 Rayburn House Office Building
Washington, DC 20515

Re: USP Marion

Dear Congressman Kastenmeier:

You will recall that in 1984 and 1985 your Subcommittee held hearings concerning the brutal imposition of the lockdown at the United States Penitentiary at Marion, Illinois, the most maximum security prison in the United States. I write to you today because that lockdown continues unabated, and its effects are devastating on those men made to suffer its conditions.

In this era of concern over "democracy" and human rights, the issues of prisons and political prisoners are being raised around the world. Many nations when confronted with international inquiries and pressure have made adjustments, reforming prisons and granting amnesty to political and social prisoners. These countries include East Germany, the Soviet Union, Cuba, Czechoslovakia, and even South Africa. Cuba, long accused by the United States of abuses in its prisons, opened its prisons for inspection by U.S. based human rights groups. The United States has not reciprocated. Not only was a high level Cuban delegation denied visas when it sought to investigate the human rights of prisoners in the U.S., including at USP Marion, the Justice Department has ignored two reports from Amnesty International, which, for the first time in the history of U.S. prisons, found human rights violations to exist in U.S. prisons, at USP Marion and at the Women's High Security Unit in Lexington, KY.

We decided to write because of this context, because the conditions compel us to do so, and because the courts no longer offer the prisoners any remedies. In 1989, in Bruscino vs. Carlson, the United States Court of Appeals for the Seventh Circuit, even though it acknowledged the

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conditions as "sordid" and "horrible",* sanctioned the lockdown, making Marion a constitution-free zone. Conditions at Marion still, and again, require your attention and your action.

1. HEALTH

While prisoners generally experience health problems in ways many of us in the "free world" will fortunately never have to experience,** problems at Marion are magnified. The prisoners raise questions about the adequacy of physician coverage and health care. Officials at Marion have neither sought nor received accreditation from the National Commission on Correctional Health Care or the

*The Court finds the conditions as follows: "As a result of the permanent lockdown, each inmate at Marion is confined to a one man cell (there are no female inmates in the prison) round the clock, except for brief periods outside the cell for recreation (between 7 and 11 hours a week), for a shower, for a visit to the infirmary, to the law library, etc... Recreation means pacing in a small enclosure - sometimes just in the corridor between the rows of cells. The inmate is fed in his cell, on a tray shoved in between the bars. The cells are modern and roomy [9'x10'] and contain a television set as well a bed, toilet, and sink, but there is no other furniture and when an inmate is outside his cell he is handcuffed and a box is placed over the handcuffs to prevent the lock from being picked; his legs may also be shackled. Inmates are forbidden to socialize with each other or to participate in group religious services. Inmates who throw food or otherwise misbehave in their cells are sometimes tied spreadeagled on their beds, often for hours at a stretch, while inmates returning to their cells are often (inmates of the control unit, always) subjected to a rectal search: a paramedic inserts a gloved finger into the inmate's rectum and feels around for a knife or other weapon or contraband." Bruscino vs. Carlson, 854 F.2d 162, 164 (7th Cir. 1988), cert. den. ___ U.S. ___ (1988).

**An excellent series by Olive Talley was recently published in the Dallas Morning News, June 25, 1989 - June 30, 1989.

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American Corrections Association. In the context of the overall isolation of Marion, the administration's failure to seriously address prisoners' real problems and inform them promotes hostility and distrust, and reinforces the feelings of helplessness and powerlessness engendered by the lockdown:

a. Water: There is no doubt that the Crab Orchard National Wildlife Refuge has one of the most serious PCB toxic waste problems in the country, having been designated to receive EPA Superfund cleanup money. Crab Orchard Lake, at the same site, is the source of drinking water for the prison. It was the source of drinking water for the town of Marion, until the disclosure of the contamination influenced the town to seek an alternative source. Evidence reveals that fish from the lake contain "unacceptable" levels of PCB. The prisoners fear they are being subjected to a risk of cancer, and have filed a class action lawsuit. The lawyer representing the prisoner class made a discovery request to test the water in the prison. The government has resisted this request, even though the attorney has offered to pay for the tests out of his own pocket and to dismiss the case if the tests show that the water is not contaminated. Why would the prison want to prevent the prisoners' expert witness from testing the water? Why would the administration be looking for an alternative water supply (they say they are)?

The prisoners report a variety of health problems. Because information is not provided them, and consultation with knowledgeable health care providers is not available, they attribute many problems to the water, including skin rashes, and subcutaneous lumps. The real symptoms they experience often go undiagnosed and untreated.

b. Giardia: Giardia lamblia is an intestinal parasite most commonly transmitted by "hand-to-mouth transfer of cysts from the feces of an infected individual or the ingestion of fecally - contaminated water." CDC's Michelson and Juranek, "Giardiasis at the U.S. Penitentiary in Marion, IL." (Sept. 1989). The week of April 24, 1989, three prisoners were diagnosed as having the giardia parasite. Many prisoners reported

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symptoms including stomach and abdominal cramps, diarrhea and bloating. By the week of May 8, there were 27 reported cases. It was not until the following week that Marion officials first reported the situation to the Centers for Disease Control (CDC). By the week of June 5, 70 out of 71 prisoners tested showed positive for giardia. A week later, Bureau of Prisons authorities asked the CDC to conduct an investigation to locate the source of the infection. The lab which had performed the positive tests unfortunately destroyed all but two of the specimens. In these two, the CDC confirmed the presence of giardia. Cases of giardia were reported in every unit in the prison. (It is significant to recall that prisoners from one unit have no contact with prisoners from other units).

At first, no information at all was provided the prisoners, who are cut off from society even more so than general population prisoners, and who have few resources to turn to. As more people experienced symptoms, administrators and health care providers began offering a variety of explanations which did not explain, but rather humiliated and infuriated. A Puerto Rican man was told he had the symptoms because he was from the Caribbean. Another man was told the disease was spread through homosexual contact.*

The CDC report, while it rules out food and water as a source of the outbreak, is inconclusive. It does not say the men did not have giardia, but casts doubt on the diagnosis without offering an explanation. If it wasn't giardia, what was it? What was the source? How can a recurrence be prevented?

c. Other Health Problems: On September 9-9, 1989, over one hundred prisoners in several units were stricken with sudden attacks of violent diarrhea, vomiting, and stomach cramps. While the prisoners suspect they experi-

*While the latter may be clinically accurate, administrators know that the lockdown has all but ended homosexual activity at Marion. Administrators are also sensitive to the fact that in the macho ethic in prison, an accusation of homosexual activity is intended to insult and inflame.

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enced some sort of food poisoning, they have no way to know, as health care providers made no attempt to diagnose or treat the problem. The administration, perhaps again because officers were said to be affected as well, took the position that the condition was: "self limiting" "acute gastroenteritis." Having refused to address the prisoners' reported symptoms, how could they arrive at any conclusion? Again, what was the source of the problem?

And how can a recurrence be prevented?

2. COMPOSITION OF THE POPULATION

a. Security Levels/Designation: When Congressional consultants Breed and Ward examined the security levels of the men at Marion, they found that a full 90% of them were not classified as security level six (Marion is the only level six prison in the system). Instead of confronting the issue of whether the existence of Marion could possibly be justified in the face of such statistics, BOP officials, without any other change in the prisoners' conduct or status, simply reclassified a mass of the 90%, classifying them as security level six. Their response failed to address the issue, which is still very much alive today, as only approximately 50% of those currently at Marion are security level six.*

Underlying the issue of security level is the broader question of designation. Who is sent to Marion? How are men selected? The myth created by the BOP to justify the abominable conditions, and swallowed wholesale by the courts**, is that only the "worst of the worst" are sent to Marion, and they "earn" their way by their "incorrigible" conduct in other prisons. Many of the men at Marion are sent there with no disciplinary infractions, and many are sent after being absolved of accused infractions. It

*This formulation of the issue does not concede that those 50% who are security level six are appropriately placed at Marion, as will be understood from paragraph 4, infra.

**See, e.g., Bruscino v. Carlson, 354 F. 2d at 164: Marion "houses...the worst federal prisoners..."

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seems clear that many men are set as "fillers", to maintain a minimum level population.

b. State Prisoners: Approximately 100 men, or just under 25% of the population, are state prisoners. Many hail from Washington, D.C., as well as from various states and territories as far away as the Virgin Islands. The impact on one's ability to maintain family and community ties is obvious.

c. Political Prisoners*: Marion has traditionally housed men who are serving sentences for political offenses. Examples from the past two decades include Rafael Cancel Miranda, one of the Puerto Rican Nationalists; Leonard Peltier, a Native American leader; and Sundiata Acoli (Clark Squire), a Black Liberation fighter.

Today Marion houses more political prisoners than ever before, who are often placed at Marion irrespective of their conduct at other prisons, sometimes without having been afforded the opportunity of placement in a normal prison. Sekou Odinga, a former Black Panther, convicted of a political RICO following his capture in 1981, was taken immediately following sentencing straight to Marion. After three years at Marion, he was moved to Leavenworth, to be returned to Marion in October of 1989, even though he was absolved of disciplinary charges brought against him. Other political prisoners currently at Marion include Oscar Lopez Rivera, a Puerto Rican man convicted of seditious conspiracy (conspiracy to use force to end U.S. colonial domination over Puerto Rico); Hanif Shabazz-Bey (Beaumont Gereau), one of the Virgin Islands five; Yu Kikumura, said by the government to be a member of the Japanese Red Army; and Kojo Bomani Sababu (Grailing Brown) a Black Liberation fighter.

There are additional political prisoners designated to Marion, who, again, were designated for placement straight from the courthouse; including Alan Berkman, Raymond Luc LeVasseur.

*We refer here not to Marion's small, isolated K unit, but to the population at Marion.

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Many of the political prisoners and some of the more outspoken and articulate social prisoners are being held in one particular unit (D Unit), which the media and religious delegations are not being permitted to see. We wonder why.

d. Racism: Administrators concede that Marion is approximately 50% Black. Prisoners report that Blacks comprise as high as 66-75% of some of the cell blocks. The reasons for and implications of these statistics require our attention.

5. "THE PROGRAM"

Apparently a result of the first Congressional hearings and observations by Congressional consultants, Marion authorities developed what they call a graded unit program, whereby one can supposedly "earn" one's way out of Marion. The program provides for a person to move from the least privileged setting (22.5 hours a day in the cell) to the next level ("C Unit") (21.5 hours a day in the cell) to the "pre-release unit" (B Unit) (work in Unicor and other privileges permitted, yet still no contact visits). "As a general rule for an inmate to be considered eligible for C Unit, he will need at least 12 months clear conduct." BOP Marion Institutional Supplement 5220.4b. One is eligible to move to B Unit after 18 months clear conduct at Marion. BOP Marion Institutional Supplement 5220.3a. The "program" is totally stopped up, such that people with 24 and 36 months of clear conduct have not been moved out of the least privileged units. Often those who have accumulated this much time with clear conduct receive arbitrary disciplinary reports. The same conduct which is condoned on one day is condemned the following day. The effect of a disciplinary report is to wipe out all the accumulated clear conduct. Men have "forfeited" years of clear conduct for "offenses" such as having a towel placed on the bars. At one point the warden indicated that at least half the population was eligible to move up. What does this say about the legitimacy of

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authority?* What does this say about even the need for a Marion?

4. CONSEQUENCES OF THE LOCKDOWN

The men are suffering from the effects of isolation and limited sensory stimuli. One man has expressed to me that he feels like someone has thrown a wet blanket on his brain; another has stated that he fears the lockdown conditions will irreparably affect his ability to love. Many talk about the perpetual anger at the humiliating and degrading practices such as the invasive body searches and the body cavity probes of the Control Unit, which require no probable cause. One universal sentiment is that of helplessness. The men are prohibited from taking responsibility, including for their own well-being. They cannot even obtain a cup of hot water - they must ask an officer; those who are in D, E, F, G, H, and I units are not permitted to work - they have no way to earn money; their reported medical symptoms by and large go undiagnosed and untreated. This pervasive feeling is only aggravated by the giardia incidence and the suspected contaminated water. Without information and without medical attention, the sense of helplessness mounts.

Prolonged exposure to isolation, particularly when combined with the other conditions of the lockdown (such as arbitrary rules and arbitrary imposition of same, and taunting by officers) can only destroy the human body and

*"There is a scheme for the separation of prisoners of which Marion is a part. Within Marion there is a system of privileges for the different classes of prisoners. However, altogether apart from the question of whether the lockdown is cruel and unusual, is the question of whether the separation and privilege scheme is functioning in fact. In order for a separation and privilege scheme to be functioning, it is not enough merely to set up different regimes for different prisoners. As well, prisoners must be properly placed. Those who earn privileges should be granted them." Amnesty International, Allegations of Ill-Treatment in Marion Prison, Illinois, USA (May 1987).

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spirit.* Knowing this, we must ask: Why the lockdown? And why the lockdown for over six years now?

The Bureau has been heard to boast that Marion "works" because "only" 30 or so of those at Marion when the lockdown was imposed in 1983 still remain. Why, if the program is such a smashing success, does anyone remain six years hence, let alone some 10% of the population at the time? And what is the measure of success? A recent article about Marion offers: "Since the lockdown, no staff members have died. Only five inmates have been murdered."** In Pontiac Correctional Center, an "open" (not locked down) maximum security prison of the Illinois Department of Corrections, for the period 1933-1989, four prisoners were killed. At another Illinois "open" maximum security prison, Stateville, for the same period, six prisoners were killed.

As you know, Marion is currently the most maximum security prison in the country. Much to our dismay the government has announced plans to build a "better Marion" claiming that because Marion was built to serve as merely a regular maximum security prison, "it would be 'ideal' if a new, super-secure prison could be built from the ground up."*** Rumors abound that this new facility will be located in Colorado.

*Stuart Grassian: Psychopathological Effects of Solitary Confinement, 11 Am. J. Psychiatry 140 (Nov. 1983); John Howard Assn., Report on the US Penitentiary at Marion (October 1987) (The Marion program seems to be designed to break the defiant spirit and behavior of difficult prisoners... Through a year or more of sensory and psychological deprivation, prisoners are "stripped of their individual identities" in a process called "mortification and depersonalization."); Amnesty International, Allegations of Ill-Treatment in Marion Prison, Illinois, USA (May 1987).

**Dickey, "A New Home for Noriega?" Newsweek, January 15, 1990, at p.67, emphasis added.

***Landis, "'Better Marion' Debated", Southern Illinoisan, December 3, 1988.

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You may recall that in the 1984 and 1985 hearings, we asked Congress to examine the Marion policy, and not necessarily to make findings of fact. We here reiterate that urgent request. The "concentration" model, the lock-down model is a dangerous, provocative and destructive policy, which has already claimed souls as well as lives. While we hope you will investigate the "new Marion", it matters not where the model is situated, be it southern Illinois, Colorado, or Alaska. What matters is that the policy is wrong and must be stopped now at Marion, before the planned escalation.

It is because of the men who seek to preserve their humanity that we must write to you. We must ask you not just to take another look at Marion but to act. We cannot urge strongly enough that you go to Marion, not just to get the administration's guided tour, but to meet with the men who live the conditions 24 hours a day, for years on end. We hope you will find the necessity for another hearing followed by a strong Congressional response. We will be at your disposal to assist you. We do look forward to hearing from you.

Sincerely yours,

Jan Susler
Attorney At Law

cc: Freedom Now
Amnesty International
Prisoners

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