

Committee to End the Marion Lockdown
P.O. Box 578172
Chicago, IL 60657
January 27, 1992

Mr. Dan Dove
Federal Bureau of Prisons
U.S. Department of Justice
Washington, DC 20534

Dear Mr. Dove:

Several months ago, members of our committee and other concerned individuals began to receive your response to the questions that were posed to Mr. Michael Quinlan, the Director of the Bureau of Prisons (BOP), concerning the federal control unit prison planned for Florence, Colorado. We welcome your belated response, and hope that we can now begin a dialogue that will allow us to quickly obtain accurate and detailed information about the BOP's plans.

Unfortunately, your letter does not in our view represent a sincere effort on the BOP's part to answer our questions. In the final paragraph of your letter, you state that you hope that the "information" you provide "serves to reassure you that the conditions at both Marion and Florence are in line with contemporary professional correctional standards..." Our purpose in writing Director Quinlan was not to determine the BOP's assessment of what constitutes contemporary standards in imprisonment. Rather, we hoped to determine to what extent conditions at Marion, which the U.S. Seventh Circuit Court of Appeals described in 1988 as "sordid and horrible," "ghastly," and "depressing in the extreme," would be present, or even further intensified, at Florence. To this end, we sent Director Quinlan a detailed set of questions concerning the BOP's plans.

Your statement that Florence "will be closely patterned after the operation at Marion" indicates that our concerns are warranted. Despite your defense of this institution, your letter often carefully avoids describing its exact nature, and thereby evades our questions. For example, we asked whether the beds at Florence would have hoops in the corners for chaining prisoners down, and under what conditions, and for how long, prisoners would be subjected to this punishment. We also asked whether finger probes of the rectum would be carried out on prisoners, and under what circumstances, for what reasons, and by whom. The only statement in your letter that pertains to these questions is that "[c]urrent Bureau policy governing search and restraint procedures at all Federal prisons will continue in effect at Florence." We take this to mean that the beds will have a hoop embedded at each corner, that these hoops will be used to chain a prisoner naked and spread-eagle on his bunk, that this will occur whenever a guard determines that the prisoner has "misbehaved" in his cell, and that the prisoner will be subjected to rectal probes whenever the prison deems this appropriate. Can you please tell us whether this is true?

It would be too cumbersome a task for this letter to describe all such evasions in your letter. However, since we still believe that the BOP has a duty to provide us and the rest of the public with meaningful answers to the

questions we asked, we will illustrate our dissatisfaction with your letter by focusing on three main categories: 1) conditions of confinement, 2) who is in Marion, and 3) due process. Naturally, we will circulate this response to your letter as widely as possible, and ask readers to join with us in demanding an immediate and full disclosure of all the relevant facts concerning the planned control unit prison.

I. Conditions of confinement

In our letter, we asked many questions concerning the amount of time prisoners will spend in their cells, what recreational, religious, educational and work opportunities will exist, and how these will vary by unit. You state that in the most restrictive unit, which you call the control unit, "inmates will only spend one hour a day out of their cells, while pretransfer unit inmates will be out of their cells from early morning until late evening." One is left with the impression that out-of-cell time in the remaining units will be more or less evenly distributed between these two extremes. Yet at Marion, where the severity of units is configured just as you have described for Florence, the vast majority of prisoners spend at least twenty-two hours a day alone in their cells. Will the same be true of Florence? How exactly will out-of-cell time vary by unit?

Similarly, you state that outside of the pretransfer unit, which at Marion holds about 15% of the prisoners, jobs will be available "for such functions as barbering and sanitation maintenance." Is it true, then, that as at Marion, virtually no prisoners outside of the pretransfer unit will be allowed to work?

Concerning educational programs, you state that "[a]s at Marion" educational opportunities will likely include "one-to-one assistance by teachers." A Marion prisoner has written us, "It is a flat lie that there is one-to-one teacher assistance... The best one can hope for is to catch someone from the education department on an infrequent tour during which a few minutes is the best one can expect." The prisoner estimates that this assistance would amount to a couple of minutes a month, and says that the relevant staff are not qualified for the job and are frequently unable to answer questions. In the absence of one-to-one assistance or any kind of interaction with others, correspondence courses and ancient, endlessly-repeated instructional tapes are of little value. Will this be the extent of educational assistance provided to prisoners at Florence?

You state that group outdoor recreational facilities will be available for prisoners who are not in what you call the control unit. This contradicts previous press reports. The Florence City Manager has stated that prisoners "will never be out of their cells, much less in the yard..." An Associated Press report stated that the model for Florence is California's Pelican Bay Security Housing Unit, where the "outside recreational facilities" consist of empty 200 square foot concrete yards with twenty foot high concrete walls covered with metal grills, in which prisoners "exercise" alone. A Marion prisoner describes recreation at Marion:

Being "outside" in an area the size of your cell can have an effect opposite to the rejuvenation outdoor recreation is intended

to facilitate, instead becoming part of the overall human deconstruction process that defines the control unit. Perhaps once a week, the average "outdoor recreation" adventure begins with a full strip search - extracting a price in dignity at the outset. This functions as a deterrent for many and poisons the experience for the rest... Then you're handcuffed behind the back and led to the outside cages. In the winter a guard will sling a battered and frequently wet and filthy (from use by others) army surplus field jacket over your shoulder... You're then released into - quite literally - a dog cage often surrounded on three sides by brick walls and covered by a roof of fencing. In the small area you have, it is impossible to run except in place. There is no chin-up bar, no punching bag, no basketball hoop, nothing but you and your anger. You're "outside", so this must be "recreation"... You holler to the prisoners in the cages next to you or listen to their banter. You watch the cop take notes on the conversations and wonder who will use them and how. You do your calisthenics, clinging to the discipline that keeps you on the right side of sanity, controlling that over which you still have some power.

Is this the sort of "outdoor recreation" you anticipate being available to prisoners at Florence?

In response to our questions about health care, you write: "There will be health care facilities with trained professional staff, in line with community health care standards." Is this another area where Florence will be "patterned after the operation at Marion"? When we paid the American Medical Association to do a search of their file which lists every licensed physician in the United States, Marion's physician was not listed. The BOP has since admitted that the prison "doctor" is not licensed. As bad as the United States health care system is, we think you would agree that treatment by a quack physician does not measure up to community health care standards. As we asked in our letter, how many licensed doctors and dentists will work at Florence, and for how many hours each day will a doctor and dentist be on site?

Concerning legal visits, you say that "[o]f course, attorney-client visits will provide for appropriate contact." Is it the BOP's practice at Marion that should cause us to feel optimistic about this? A lawyer describes her experience visiting clients at Marion:

USP Marion's de facto policy with regard to attorney visits has a twofold purpose: to demoralize both the client and the lawyer and to discourage further visits to the prison. Despite arriving an hour ahead of visiting hours in order to ensure maximum consultation time with a client, intake procedures, which should take no more than two minutes, are stretched to often more than an hour. Once completed, lawyers are not allowed to proceed as a group to the visiting area, but are escorted one at a time. At this point, an attorney is often forced to fill out the same admittance papers she has just completed, with no explanation given.

Attorney-client visits take place in an unventilated room slightly larger than a phone booth. Prison officials monitor the visits from a glass booth located right next to the visiting stall. A table, welded both to the floor and walls, separates the lawyer from the client. So as to discourage two attorneys from visiting with their client at the same time, the table is welded decidedly short of the center mark, making it nearly impossible for two attorneys to sit side-by-side.

Two hours often pass from the time one prisoner leaves the visiting area to the time the next is brought in. Officials seek to justify this by saying the "prison count" is being taken. This despite the fact that it takes approximately fifteen minutes to count the entire prison. On a recent trip, three attorneys were scheduled to visit two prisoners in two separate rooms. Officials allowed only one visit to take place at a time. When the attorneys asked to speak to a supervisor, they were told that one could not be located and another hour passed before prison officials conceded that the two visits could take place at once. This type of calculated stupidity is a common ploy of prison officials seeking to hinder effective attorney-client communication. Recently, lawyers were told they may not speak with other visitors and were threatened with having their visit discontinued if they did so. Finally, visits are ended twenty minutes earlier than the scheduled time.

Is this the sort of "appropriate" attorney-client contact the BOP plans for Florence?

II. Who is at Marion, who will be sent to Florence?

You state that the planned Florence institution, like Marion, "will house the highest security inmates in the Federal Bureau of Prisons, those not suitable at a given point in their sentences for assignment to an open prison population." This is not true of Marion, and this is one of our many criticisms of the entire concept of punitive isolation that is exemplified by control units. Prisoners at Marion have never been "the highest security inmates." Some have been, and some have not, just as in all maximum security prisons. Not only do many prisoners at Marion not fit into this category, but many thousands of federal prisoners who do fit into this category have never been sent to Marion and never will be sent to Marion or Florence.

You claim that "[i]nmates assigned to the new facility at Florence would generally be those with a high security classification rating and a maximum custody rating ["high max"], just as has been the case at Marion." It may be true that currently all or nearly all prisoners at Marion have the "high max" rating. The background on how this came to be indicates the irrelevance of this fact. In 1984, two consultants for the Congressional committee which oversees the Bureau of Prisons found that 80% of the prisoners at Marion did not have the level six security rating that was then the alleged criterion for being at Marion. The BOP's solution to this embarrassing revelation was quite clever. First, a new classification system was instituted, as you describe in your letter, and "high max" was designated the new criterion for admission to

Marion. A Marion prisoner who found his rating to be "high max" on his new classification form asked a Marion counselor when and why this classification was arrived at. The counselor told him that after the new system went into effect, every Marion prisoner was classified "high max," thus ensuring that for at least one instant in the eight-year lockdown of Marion, all its prisoners had a classification rating consistent with their presence there. The fact that many would in fact still be there for incurring the BOP's wrath by writing "too many" lawsuits, organizing prisoners, or having the "wrong" politics, remained, and remains, unchanged.

Sekou Odinga, a revolutionary Black nationalist, is one of the many prisoners who have been subjected to imprisonment at Marion for political reasons. He was sent to Marion directly from court, and transferred after three years to the maximum security federal prison at Leavenworth. Shortly after his arrival there, prison officials charged him with conspiring to escape the prison. After a long stay in solitary confinement while the prison "investigated" the matter, he was acquitted of the charge in a prison disciplinary hearing. He was nonetheless returned to Marion after being told by a Leavenworth administrator that the administrator did not want Odinga in the Leavenworth prison population. The true motivation for the government's actions was exposed when an associate warden at Marion explicitly told Odinga that he would be unable to work his way out of the prison as long as his political views and associations remained unchanged.

III. Due process

You inform us that prisoners will be assigned to the disciplinary unit you call the control unit only after a hearing. Prisoners "may be represented by a staff member at these hearings, but there is no provision for attorney representation. This due process structure provides inmates with the opportunity to exercise applicable rights with respect to long-term detention in a unit of this kind." Prisoners assigned to general population units at Florence will not have such a prior hearing: "There is no provision in the Bureau for a hearing in such routine prisoner transfer cases, nor is one required by law."

We are astonished that even the BOP would assert that representation by prison staff guarantees due process in a hearing. But an even more fundamental problem of the due process provisions you describe is your transparent use of them to further the pretense, maintained throughout your letter, that there is some fundamental difference between what you call the control unit and the general population units.

A description of some of the differences between the control unit at Marion and the general population units there makes clear their essentially similar nature. Prisoners in the control unit are alone in their cells twenty three hours a day, while prisoners in general population are alone in their cells at least twenty two hours a day. Prisoners in the control unit exercise by themselves in an indoor cage, while prisoners in general population occasionally exercise outdoors, but still alone in a cage. Prisoners in the control unit have their wrists and ankles shackled and are escorted by three truncheon-wielding guards whenever they are outside their cells, while prisoners in general population have their wrists shackled and are escorted by

one truncheon-wielding guard whenever they are outside of their cells.

No doubt these sorts of differences make life even worse for prisoners in the control unit, yet clearly the difference in repression is quantitative, not qualitative. Virtually all of Marion is used for long-term detention of the kind planned for the Florence control unit, and it seems clear that the same will be true of Florence. Why then will there be no provision for a hearing prior to assignment to Florence's "non-control unit" cell-blocks?

We believe the above clearly illustrates that your letter has not provided honest and meaningful answers to our questions. We urge you to provide us and the public with such answers. The BOP's refusal to acknowledge the facts concerning conditions at Marion, or to provide direct, detailed answers to our questions concerning Florence, reflects your continuing efforts to deny the truth about conditions in these prisons. These conditions are so severe that in its recent report entitled "Prison Conditions in the United States," the international human rights agency Human Rights Watch recommended that prisons such as Marion be put under independent supervision. Amnesty International reported on Marion in 1987, and condemned the prison because "there is hardly a rule [in the United Nations Standard Minimum Rules for the Treatment of Prisoners] that is not infringed in some way or another" there. Will Florence follow in Marion's footsteps in drawing the justified condemnation of the international community?

Nothing in what you have written reassures us. In fact, we remain terrified for those you will be sending to Florence and for those of us in whose name this new control unit prison is being built.

Sincerely,

Steven Whitman