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THE UNITED STATES PENITENTIARY,  
MARION, ILLINOIS

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## FOREWORD

DECEMBER 31, 1984

The Committee on the Judiciary has oversight and legislative responsibilities relating to the Federal Prison System including the operation of the facilities of the Bureau of Prisons.

During the 98th Congress, the Subcommittee on Courts, Civil Liberties and the Administration of Justice held a series of hearings on the Federal prison system, focusing particularly on conditions at the United States Penitentiary at Marion, Illinois (USP Marion). From October 27, 1983, and continuing to the present, UPS Marion—which is the highest security level (level 6) of any Federal prison—has been operated with most inmates locked in their cells approximately 23 hours each day. This is the longest lockdown in the history of the Bureau of Prisons. Bureau of Prisons and USP Marion officials have claimed that the lockdown was and continues to be necessary to maintain order and to ensure the safety of staff and inmates. Others have claimed that the lockdown has been unnecessarily harsh and that inmates have been denied access to religious services, to legal and necessary personal materials, to family and friends, and to minimal medical care. There also have been allegations of harassment and physical abuse by prison staff.

In light of the conflicting claims concerning this lockdown, the Committee commissioned two correctional consultants to visit the institution, and meet with interested parties including inmates, employees, administrators and others, in order to prepare a report and make recommendations, where appropriate, on conditions at USP Marion.

Two consultants were selected by the Committee: (1) Allen A. Breed, the former director of the National Institute of Corrections and now Chairman of the Board of Directors of the National Council on Crime and Delinquency, and (2) Professor David A. Ward, Chairman of the Sociology Department at the University of Minnesota (Minneapolis). The consultants reviewed documents of the Committee and of the Bureau of Prisons, visited USP Marion, and met with appropriate persons in Marion, Illinois, and Washington, DC, in preparing the report. The Committee is grateful for the contribution of expertise, time and energy which the consultants provided.

Due to time limitations the consultants were unable to investigate allegations of staff abuse of inmates. Some of these allegations are being reviewed in the courts.

PETER W. RODINO, Jr.,  
*Chairman.*

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## The United States Penitentiary, Marion, Illinois: A Report to the Judiciary Committee, U.S. House of Representatives

(By David A. Ward, Chairman, Department of Sociology, University of Minnesota; and Allen F. Breed, Chairman, Board of Directors, National Council on Crime and Delinquency)

### A BRIEF HISTORY OF THE UNITED STATES PENITENTIARY AT MARION, ILLINOIS

One of the most perplexing problems in any prison system is finding methods to control those inmates who are disruptive, escape-prone and assaultive towards other inmates or to staff. Most prisons have disciplinary segregation units which allow for short term punishment and incapacitation of these inmates but as one moves up the security scale from minimum to medium to maximum security prisons, the proportion of the inmate population regarded as "management problems" sharply increases. Predatory and escape-prone inmates go through disciplinary units in a revolving door fashion in all prisons and because all the inmates at risk in any one prison are not locked up in disciplinary segregation at any one time, entire prisons may be operated as though every inmate is ready to explode in violence or about to try to break out of prison. For decades the prison systems of the larger states have sought to remedy the problems posed by unruly inmates by transferring them to their most secure prisons and more recently to special units called "adjustment centers," "special housing units", or "control units". The Federal Bureau of Prisons with correctional facilities and penitentiaries spread across the United States opted in the early 1930's for what is called the "concentration" model—all the rotten apples are put in one barrel—rather than the "dispersal" model—the rotten apples are distributed to a number of prisons in the hope that the influence of problem prisoners will be diluted in populations of generally law abiding inmates. To allow even the maximum security penitentiaries at Leavenworth and Atlanta some relief from their most problematic prisoners the Federal government took over the former military prison on Alcatraz Island in 1934 and began to operate the nation's first super-maximum security prison. Alcatraz had a capacity of some 275 inmates, did not pretend to offer any "treatment" program except work and was intended to simply incapacitate and punish the nation's most desperate criminals and the federal prison system's worst troublemakers. Controversy surrounded Alcatraz throughout its 30 year history as a federal prison. Alcatraz, it was charged, was America's Devil's Island, it was "Hellcatraz"—a place where convicts slowly went insane from the tedium and hopelessness of endless years on "the Rock". In 1963 Alcatraz was closed, officially because it was costly to operate an island prison, but more importantly because it

was regarded as symbolizing a penal philosophy that was outdated in the era when rehabilitation, not punishment, was being espoused as the goal of imprisonment. Most of the Alcatraz inmates were sent back to Leavenworth and Atlanta with smaller numbers going to other penitentiaries. A new prison at Marion, Illinois was near completion but the Alcatraz inmates, with their outstanding escape records, were seen as posing too severe a test for a new facility and during the mid-1960's Marion housed a population comprised largely of younger prisoners. With the increase of racial conflict in prisons that came in the late 1960's and early 1970's some of the Alcatraz inmates still serving time or back on new sentences began to be transferred to Marion. The Marion population became older and the criminal and prison records of the inmates became more serious and increasingly involved violence in and out of prison. In 1973 the Bureau of Prisons returned to the policy of concentrating the most disruptive inmates not in one prison but in a special unit, a Control Unit, at Marion. The purpose of the Control Unit was ". . . to separate those offenders whose behavior seriously disrupted the orderly operation of an institution from the vast majority of offenders who wish to participate in regular institutional programs".<sup>1</sup> During the mid-1970's the general population at Marion was comprised of inmates who were classified for maximum custody but not all of them had the records of violence and escape attempts compiled by the men in the Control Unit. In 1978 the Bureau of Prisons began to implement a new inmates classification system which called for the addition of a new higher security classification level to the five levels already in place and in 1979 Marion became the Bureau's only "level 6" penitentiary. Marion's new purpose was to provide long term segregation within a highly controlling setting for inmates from throughout the federal system who:

- (1) threatened or injured other inmates or staff
- (2) possessed deadly weapons or dangerous drugs
- (3) disrupted "the orderly operation of a prison . . ."
- (4) escaped or attempted to escape in those instances in which the escape involved injury, threat of life or use of deadly weapons.<sup>2</sup>

The decision to establish Marion as a level 6 penitentiary and to convert the prison from an institution with only one Control Unit with other inmates congregating and moving in large groups to a "close, tightly-controlled, unitized" institution for all inmates was influenced by a number of events including a series of gang-related killings at the Atlanta Penitentiary, the growing power of gangs in other prisons, including the creation of "assassination squads", an increased number of assaults upon inmates and staff at level 4 and level 5 prisons, the violent deaths of three inmates at Marion in a one year period, a series of escape attempts at Marion involving the use of weapons, explosives, outside assistance (in one case a hijacked helicopter and in another a hijacked plane), and the stabbing at Marion of the Associate Warden and the Food Service Steward in the inmate dining room. Furthermore, during the late

<sup>1</sup> Bureau of Prisons Policy Statement, 5212.1, June, 1973.

<sup>2</sup> Federal Prison System, Program Statement 5212.3, July 16, 1979.

1970's, a period during which the inmate population in the federal system had been declining, the rate of assaults, particularly upon staff, was increasing.<sup>3</sup>

	Assaults				Homicides
	Inmate on inmate		Inmate on staff		
	With weapon	Without weapon	With weapon	Without weapon	
January 1976 through June 1977.....	337	157	55	148	23
January 1978 through June 1979.....	355	181	80	264	25
Percentage of Increase.....	5.3	15.3	45.5	78.4	8.7

A task force, established by the Bureau, concluded that the need to reduce violence in the federal prison system superceded all other considerations:

It is of paramount importance to note that this proposal, proactive in approach, is designed to greatly reduce incidents such as those above, both at Marion and other facilities. All other considerations at this point are secondary. Once implemented, other factors relating to programs or work would be considered. A distinct advantage of creating a closed-unit operation at Marion is that other institutions would be able to remove from their populations the violent, assaultive, and disruptive inmates who require the stringent controls that Marion would possess. This should enhance programming capabilities at other institutions. In essence, Marion would become a very specialized facility to house those inmates from the Federal Prison System whose violent, extremely disruptive behavior, causes management problems in other facilities . . . Each movement of inmates would involve only one unit at a time and staff will accompany this move. Inmates from different units would never be moved at the same time. This procedure would maximize staff supervisory capabilities . . .

Advantages of this system:

1. Placement of all violent, assaultive, and most disruptive inmates in the Federal Prison System in one institution under maximum control would reduce the management problems and outbreaks of violence in other institutions. Also, included in these categories would be the escape risks whose potential for violence is high, and those who are leaders of disruptive activities.

2. The number of inmates currently in Control Unit would be reduced, as some currently there would function in the closed-unit environment as set forth in this proposal, thereby eliminating the need for another Control Unit.

3. The controlled movement and high supervision of these inmates in a specialized institution with trained staff would maximize the safety of staff and inmates.<sup>4</sup>

<sup>3</sup> Marion Task Force Report, J.D. Henderson, Chairman, Attachment 1, August, 1979, p. 5.

<sup>4</sup> Marion Task Force, *Ibid.*, pp. 6-7.

Action on the recommendations of the Marion Task Force however were deferred by the Bureau of Prison's Executive Staff. The Bureau did approve the closing of the metal factory at Marion which had long been considered a source of weapons and escape paraphernalia. Several months later, in November, 1979, Marion's new warden, Harold Miller, asked that the transfer of the industrial operation be reconsidered and this decision was also deferred. The work program, however, became a problem for Warden Miller almost immediately. In January, 1980, all work was stopped by a strike. In March and April a three week work stoppage occurred. Two inmates were murdered in June and the strike organizers threatened violence against any inmates who were inclined to go back to work. In September a third strike began which continued until January, 1981, at which time the Bureau's patience, while costly equipment stood idle, was exhausted and the industrial program was moved out of Marion and installed in another prison. With violence increasing and inmate resistance well organized in the view of the Marion staff, the recommendations of the Marion Task Force were reexamined. The work strikes had forced the Marion staff to learn to operate every department in the prison without inmate help and the length of the strike had accustomed both inmates and staff to an operation which allowed only limited activities. Marion settled into a new phase with the Bureau cautiously optimistic that the "stringent environment" which had evolved would allow the prison to operate in ". . . a much secure and effective fashion than it was prior to the implementation of these procedures. Inmates and staff are safer as a result of these procedures".<sup>5</sup>

When the Bureau concluded that placing the most recalcitrant and difficult inmates in the federal system in one place would allow other prisons to operate more openly and that the new "strictly controlled movement procedures" at Marion should produce a safer environment for inmates in that prison, the return to the Alcatraz model was complete, a fact recognized by newspaper reporters and journalists whose articles about Marion were inevitably titled, "The New Alcatraz". The Bureau's team reviewing this policy change was aware however, that having changed the function of Marion at a time when the Bureau's population of violence-prone offenders was climbing and as more states gave up their efforts to control their most unruly prisoners and sent them on to the federal system, serious problems might well develop in the future.

The leadership of the Federal Prison System—at Marion, at the Regional level, and in the Central Office—will never accept violence and intimidation as a norm for Marion, or any other facility. However, there must be a realistic acknowledgement that the type of inmates now confined there can, through a variety of ingenious methods, still perpetrate assaults, attempt escapes, and otherwise disrupt institutional operations under even the most stringently monitored circumstances. These problems can be anticipated as a result of the decision to con-

<sup>5</sup> Program and Procedure Review, U.S. Penitentiary, Marion, Illinois, November 2-5, 1981, p.

centrate this population at one facility; Marion will not be violence free, simply because of the type of inmate housed there. In fact, *unless properly managed, on a day-to-day basis Marion contends with a population which presents the potential for the most serious prison disturbance in our System's history. For that reason, staff at Marion require an extra measure of support, not only in terms of resources, but in expressions of confidence from the Executive Staff for carrying out a difficult task in the face of such a population.* (Emphasis in the original)

Warden Miller and his staff have done an exemplary job managing Marion through this change. There is no policy or manual on how to style a non-traditional program such as Marion's while dealing on a day-to-day basis with the most difficult prison population in the United States. However, Executive Staff support should transcend the present administration and its accomplishments. Marion staff will require unusual resources from time to time, and should receive them. Marion will operate as an "administrative penitentiary" serving the needs of the entire prison system . . . The difficulty factor in managing this facility cannot be overstated. Even though Marion may compile a continuing list of problems such as escape attempts and assaults, or even murders, in the future, the Executive Staff must consider those events in the context of the intensely difficult population there. Balanced against those difficulties will be the benefit of a reduction in the number of problems in every other facility as a result of this concentration of management problems at Marion.<sup>6</sup>

During the early 1980's, Marion did experience the difficulties predicted by the Review Committee. Staff reports indicate that from the end of February, 1980 to the middle of June, 1983, along with 14 attempted escapes and 10 group disturbances, there were 54 serious inmate on inmate assaults, that 8 inmates were killed by other prisoners and that there were 28 serious assaults on staff.

#### EVENTS LEADING UP TO THE OCTOBER 28, 1983 LOCKDOWN AT U.S.P. MARION

The frequency and seriousness of assaults on staff during the early months of the year accelerated during Summer, 1983. The reasons for this increase in assaults on employees has not been the subject of study in this investigation but the sequence of events is well documented. On July 8, two inmates armed with knives took two officers hostage in the Disciplinary Segregation Unit. In the course of trying to free himself one of the officers was stabbed. The following week a general population<sup>7</sup> inmate was stabbed five times and several days later as inmates were returning to the general population units from the main dining hall two inmates at-

<sup>6</sup> Program and Procedure Review, 1981, Ibid., pp. 6-7.

<sup>7</sup> General population inmates are those confined in units B, C, D, E, and F. These units are arranged on either side of the East Wing of the prison in telephone pole style. G Unit is for the protective custody unit; H Unit is the Control Unit; I Unit is for disciplinary segregation and K Unit houses a half dozen inmates requiring special protection. These special purpose units and the hospital are arrayed on one side of a wing separated from the main corridor and east wing of the prison by a series of barred grills. A Unit does not house any inmates but is the site of the industries program established in summer 1984 for B Unit inmates.

tacked the two officers escorting the group. One officer was stabbed 12 times and the prison was placed on lockdown status after this incident. Recreational and other activities were suspended and inmates received sack lunches in their cells for breakfast, lunch and dinner. Several days later, on July 21, recreational activities, visits and hot meals were reinstated for general population inmates but on the morning of the 21st three inmates engaged in a fight in the dining hall; one inmate was stabbed, staff were threatened by the inmates and once again recreational and other activities were suspended. On August 1, inmates were allowed to go to the dining hall for two meals and to have an hour of outdoor recreation. Two days later as inmates were returning from the dining hall one inmate stabbed another inmate in the back. Provision of two hot meals in the dining hall and outside recreation time continued however. On August 8, inmates began to receive all three meals in the main dining room and recreation time was increased. On September 5, a general population inmate assaulted an officer with a mopwringer and a chair. On September 23, an inmate was found covered up in his bed, dead from 32 stab wounds. On October 10, a general population inmate was assaulted with a knife and a mopwringer by three inmates and an officer was assaulted when he tried to stop the attack on the inmate. A week later a fight in a general population unit in which inmates used a table, a mopwringer and a metal trash can as weapons, left one inmate injured. On October 22, on B Range in the Control Unit, three officers were moving an inmate from the shower to his cell. The inmate walking ahead of the officers, suddenly stopped to talk to another inmate as he passed a cell; he then turned to face the officers, his handcuffs unlocked and a knife in his hand. The inmate moved quickly to attack the officers but before they could escape behind the grill door which separated B Range from the rest of the Unit, Officer Merle Clutts was stabbed 40 times. He died an hour later. The inmate gave up his weapon, returned to his cell, and a shakedown of B Range was ordered. All activities temporarily ceased in the Control Unit but later in the day normal recreational activities and showers for A, C, and D Ranges were reinstated. During the evening of that same day, three officers were escorting an inmate on C Range to the recreation cage. This inmate also suddenly stopped in front of another inmate's cell and when he swung around to face the officers his handcuffs had been removed and he too had a knife in his hands. In the ensuing battle all three employees were stabbed, Officer Robert Hoffman, Sr., fatally. A few minutes after the assault in the Control Unit two inmate orderlies in the Disciplinary Segregation Unit tied the grill door shut on one of the ranges and passed out broom and mop handles to inmates for use as weapons.

On October 23, all activities for general population inmates except for range recreation and showers were cancelled but on the following day they were restored. On the 25th a fire was set on one range in the Disciplinary Segregation Unit and several officers reported that inmates were telling them that they would be the next to die. On October 27, normal activities for general population inmates continued until early evening when a fight in D Unit resulted in the death by stabbing of inmate Jack Callison. An hour later as inmates from another general population unit were being re-

leased to go to the dining room, four inmates ran down the East Wing corridor and attacked several staff members. On October 28, a state of emergency was declared by Warden Harold Miller with all activities, except visits, cancelled for general population inmates. U.S.P. Marion was placed on lockdown status.

#### EVENTS FOLLOWING THE STATE OF EMERGENCY DECLARATION

On October 29 a small trash fire was started in one general population unit and as a result of an institution wide search six weapons were found in another general population unit. On October 30, inmates in a general population unit threw trash out on the ranges, broke some windows and set fires. The continuing search of the prison for contraband and weapons turned up three sharpened instruments in another general population unit. As a result of the killing of the two officers and the Warden's announcement that a state of emergency existed, the Bureau of Prisons ordered the transfer of temporary duty staff from other prisons to assist the Marion staff. The first contingent of officers reported to work at the prison on October 30. On the 31st, C-Unit inmates set four fires, threw objects and the television set on the range was set on fire and destroyed. Inmates in the Disciplinary Segregation Unit threw their food trays out on the range and a search of D Unit turned up several weapons. On November first, general population inmates continued to receive sack lunches in their cells for all meals and staff began installing microwave ovens in each unit to allow hot meals to replace some of the sack lunches. Five fires were set in C-Unit and one fire was set in F-Unit. C-Unit inmates threw glass and other objects at staff. A search of F-Unit produced 7 weapons. On November 2, fires were set in two general population units and the staff began to move inmates, one unit at a time, into empty cells in other units while searching the vacated unit and removing all personal property from each cell. Inmates whose cells were being searched protested and flooded some of the ranges in the cell houses to which they had been moved. The shakedown of the Control Unit produced two sharpened instruments as well as drugs and drug paraphernalia. An inmate who was to be transferred from the prison was searched and 2 three-inch hacksaw blades, two handcuff keys and two lock-picks were found in his rectum; a packet of heroin was found in the rectum of a Control Unit inmate. Sixty officers from other prisons were now on duty to assist the Marion staff take the steps regarded as necessary to regain control of the prison.

New custodial procedures were implemented. All correctional officers were issued riot batons and instructed to carry them at all times. A special operations squad, known as "The A Team", arrived from Leavenworth and groups of Marion officers began to receive training in techniques of conducting forced cell moves and controlling resistant inmates. These officers were outfitted with helmets, riot control equipment and special uniforms. A new directive ordered that before any inmate left his cell he was to place his hands behind his back near the food tray slot in the cell door so that handcuffs could be placed on his wrists and leg irons on his ankles. No inmate was to be moved from his cell for any reason

without a supervisor and three officers acting as an escort. Digital rectal searches were ordered for all inmates entering and leaving the Control Unit along with strip searches of inmates before and after visits with their attorneys. "Basic" law libraries were ordered installed on each range (that is, four per unit) to eliminate that opportunity for inmates to pass contraband from range to range. Inmates were limited to 3 paperback books in their cells, apart from the legal materials. Other "non basic" legal materials could be checked out of the prison's main law library. All weight lifting and exercise equipment was removed from the inmate recreation areas and exercise was limited to walking, calisthenics and the use of a chin-up bar. The two assaults upon the officers in the Control Unit had demonstrated that one inmate, physically powerful from the use of weightlifting and body building equipment, could take down three employees even when they were fighting for their lives.

On November 3, the installation of microwave ovens was completed in the general population units and inmates began receiving one hot meal each day. Inmates received their food on plastic trays with all utensils, as well as paper and plastic packages of sugar, salt, pepper and other condiments, to be returned at the end of the meal in order to reduce the amount of material that could be used to set fires. The shakedown and confiscation of personal property continued in other general population units with inmates being reported for threatening officers, for throwing urine on an officer, for throwing food, for possession of sharpened instruments and for possession of drug paraphernalia. New visiting procedures went into effect which allowed inmates four non-contact visits of one hour each during a month. Lawyer-client meetings were conducted in a visiting booth with personal contact allowed but under the surveillance of a television camera and an officer in a nearby elevated stand. The staff began the process of identifying inmates to be transferred to "B" Unit, a general population unit that was to be used as a kind of honor unit with more privileges and increased freedom to move about the Unit and to the recreation and dining areas.

On November 4, all general population inmates received a hot meal, except for E-Unit where the inmates were regarded as disruptive and sack lunches were provided. All general population inmates in units or ranges not identified as disruptive were allowed to shower. The shakedown of general population units continued with three inmates reported for threatening staff and one inmate reported for throwing food on an officer. One inmate refused to leave his cell peacefully and was removed by force. In the Control Unit three sharpened instruments were found, two concealed in mattresses in empty cells. A Control Unit inmate threatened officers and after he refused to leave his cell as ordered he was removed with the use of "a chemical agent" and force. Twenty-five inmates were transferred from Marion to other federal prisons.

Throughout November, the lockdown continued with general population inmates receiving, after November 9, two hot meals and one sack lunch each day. There were sporadic incidents of inmate resistance such as refusing to be handcuffed and peacefully leave a cell, for refusing to return to a cell, for refusing to return eating utensils, for throwing urine on staff, for encouraging group demon-

strations and for assaulting staff. Several inmates received incident reports, that is misconduct reports, for possession of sharpened instruments and for possession of homemade handcuff keys. The number of incident reports averaged about 4-5 each day. Beginning on November 8, inmates were allowed to order items from the commissary and new rules specifying allowable personal clothing and possessions went into effect. To dispose of personal items no longer permitted inmates were given the option of having them sent home or destroyed. Hardcover books, other than law books, were prohibited. On November 12, five attorneys arrived at the prison entrance and requested permission to visit 40 inmates. The attorneys were told that they would not be allowed to meet with the inmates since they had not followed the established procedures for requesting an attorney-client visit. On November 14, inmates in general population units began receiving 30 minutes recreation each day with two inmates at a time allowed out of their cells on each side of the unit. On November 15, several attorneys were allowed special visits with four inmates and a revised list of permissible hobbycraft materials was issued. On November 16 all personal property allowable under the new rules was returned to inmates and 15 inmates were allowed to meet with lawyers. During the last week of November a contract was awarded to a construction company to begin dividing up the prison's main recreation area into two smaller self-contained yards, general population inmates began to receive three microwave-heated meals each day and Control Unit inmates, with the exception of inmates confined to the disciplinary segregation section, were allowed 7 hours of recreation and 3 showers each week. Replacement of metal bed frames with concrete foundations as well as construction of a small concrete shelf in each cell for use as a stand for a TV set was begun in the Control Unit.

During the month of December the Protestant and Catholic chaplains established a schedule whereby they walked each range in each unit twice each week; recreational equipment in the form of dominos and checkers were placed in all general population units; modification of outside recreation yards into separated areas for the Control Unit and for the disciplinary segregation and protective custody units began and on December 25, B-Unit inmates were allowed to eat lunch in the main dining hall. During December, 129 incident or disciplinary reports were recorded.

In January 1984, the contingent of 60 temporary duty officers sent to Marion after the state of emergency was declared began to return to the institutions from which they came. Eighteen experienced correctional officers from other federal prisons were given permanent transfers to Marion and the correctional officer complement was increased by 35 to 215 positions. A new associate warden, a new Control Unit manager and four new lieutenants were on duty.

In January 1984, B-Unit inmates began to eat three meals a day in the main dining hall; they were allowed to move to and from the units without handcuffs or leg irons except for movement into the visiting area for attorney visits; group recreation in the gymnasium was restored along with television privileges; inmates were allowed out on the ranges in groups of 10 at a time and metal lockers for storage of personal property were provided.

During February four inmates were reported for assaulting staff and two inmates were reported for assaulting another inmate. No serious assaults were reported during March but in April, 184 incident reports were issued for a half dozen fights, for several assaults on staff members, in one case with a stapler, and in another with a sharpened pencil; on April 29, inmate Millard Hubbard was beaten to death by another inmate in one of the general population units. Contraband, including homemade handcuff keys, cell and door keys, homemade knives, currency, a syringe and needle, and hacksaw blades continue to turn up. No staff or inmate assaults involving serious injuries were reported during May, but in June an inmate tried to drag an officer into his cell and the ensuing altercation left four officers injured. In July an inmate attempted to assault an officer by grabbing him through the cell bars, another officer was assaulted with a sharpened object and a third was kicked in the groin. In July, seven white inmates attacked a black inmate using racquet ball racquets and another inmate was injured in an assault by three other inmates while the four were out of their cells for recreation. Staff records also indicate that during this eight month period, ". . . there were numerous cases where inmates refused to move from one location to another when ordered, offering physical resistance and requiring the use of force for the move." During Winter and Spring, 1984, approximately 1,000 incident reports were recorded at U.S.P. Marion.

The effects of the lockdown on every aspect of daily operations at Marion, including those generally regarded as benign, may be seen in the changes in the delivery of medical services that occurred after October 28, 1983. Following the announcement that a state of emergency existed routine sick call was suspended and medical personnel, including two physician assistants temporarily assigned to help the Marion staff, responded to emergency calls and delivered medication dressed in full riot gear, including helmets. Since the lockdown required that any inmate be strip searched upon leaving and returning to his unit and that he be escorted in handcuffs and leg irons by three officers, the task of bringing inmates to the prison hospital for examinations was made complex and time consuming. Procedures were therefore instituted to provide basic medical services in a sick call area within each unit. When routine sick call was reestablished on November 7, with physician assistants moving from cell to cell in each unit, 110 inmates asked to be seen. These medical department employees continued to wear riot gear and examined inmates in the housing units with custodial personnel standing close by. As the lockdown continued, the number of sick call requests, remained considerably higher than the average of 39 sick call requests per day prior to the lockdown. Some 7,150 sick calls were recorded for the six month period following the lockdown including a number of complaints from inmates contending that they had sustained injuries as a result of beatings by staff. These complaints, according to medical personnel, often came days or weeks after the incidents occurred and when most examinations failed to show any sign of injury, a new procedure was adopted which called for inmates to be photographed immediately after any forced move. By the end of November the physician assistants returned to making rounds in their

regular uniforms with jumpsuits, helmets and riot batons stored in the hospital for emergency use.

During December and January the medical staff was called upon to respond to two new problems—hunger strikes and forced digital rectal examinations for contraband. Between the end of October, 1983, and early May, 1984, upwards of 100 inmates threatened to go on hunger strikes and 26 prisoners actually launched hunger strikes. To forestall forced feeding by the prison staff, a group of inmates won a restraining order from the federal district court which ruled that, "as long as the inmates were coherent and conscious, they could not be forced fed." While forceable intervention to keep an inmate from continuing a hunger strike emerged as a new problem for the medical staff, that problem was not as serious as the requirement that these employees conduct rectal searches for contraband on inmates who forcibly resisted. This action has placed the Marion medical staff, as far as the inmates are concerned, clearly on the side of the custodial not medical interests.

A new Warden, Jerry Williford, replaced Harold Miller in April and in the year since the killing of Officers Clutts and Hoffman and inmate Callison and the imposition of the lockdown, Marion's operational changes have been cautiously implemented as the prison seeks to carry out its mission of providing "humane incapacitation". The metal bed frames in the Control Unit have been replaced by concrete slabs and four-point restraint fixtures were set in the concrete bunks in the Control Unit and in I-Unit disciplinary segregation cells; the subdivided and enclosed recreational yards for general population and special unit inmates became operational; mini-law libraries were established in each unit and individual television sets were placed in all cells in the general population units (B Unit inmates watch television in groups on each range and Control Unit inmates have individual TV sets); the remodeling of the visiting room into non-contact cubicles was completed; visiting periods were increased from 1 to 2-hours, four times a month; cardboard storage lockers were placed in general population unit cells; and out-of-cell recreation time was increased to 11 hours per week for general population inmates. B-Unit inmates are now allowed free access to the ranges from morning until 10:00 p.m. and typewriters have been placed in their mini law libraries. In June, B-Unit inmates began to assist in the remodeling of A-Unit into a work shop and in August some 20 inmates began work on a cable assembly project.<sup>8</sup>

Marion's population has been lowered from 373 to 347. None of the 146 inmates transferred to other federal prisons or returned to state prisons during the past year have been returned to Marion. Of the 15 inmates released from Marion, 8 returned directly to the free world, 2 were released to community treatment centers and 5 were released to detainers. Of those inmates transferred to other federal prisons, 13 were sent to the Medical Center at Springfield, Missouri, four for psychiatric evaluation or treatment, two for medical treatment, five for medical care and observation after prolonged hunger strikes and two for protective custody reasons. In

<sup>8</sup> See Appendix A for a more detailed description of *proposed* operational guidelines for B-Unit, and Appendix B for the *final* operational guidelines.

October, 1984, six inmates at Marion were receiving psychotropic medication, none of them in the Control Unit.

A staff report comparing the nine month period February through October, 1983, with the period November, 1983 through July 19, 1984, indicates that the number of assaults has not changed significantly since the lockdown.

	Assaults on staff with weapon	Assaults on staff without weapon	Assaults on inmates with weapon	Assaults on inmates without weapon
February 1983-October 1983.....	8	6	11	1
November 1983-July 19, 1984.....	4	11	4	7

What is significant to the staff is the decline in the number of assaults on both inmates and staff in which weapons were used. This decline is attributed to a significant decrease in contraband, a point supported by staff documents which indicate that the weapons used in assaults prior to the lockdown were prison-made knives ranging in length from 6 to 14 inches, but the weapons used since the lockdown—pencils, razor blades, food trays, etc.—have caused less serious injury. The assault on inmate Hubbard, by another inmate with no weapon, was the only instance during the past year in which an inmate required medical treatment in a community hospital outside of the prison. The most serious injuries to officers have been a fractured jaw, bruises to the facial area, and in a third case, damage to a lieutenant's front teeth.

The information provided above is taken from a wide variety of staff reports and they represent the staff view, reporting and analysis of the events leading up to and following the lockdown. The perspective of the Marion inmates on the same events is very much at variance with these reports as evidenced by the fact that inmates are filing grievances at the rate of 170 per month, that 155 civil suits for money damages were filed during the first 8 months of 1984, and in June, 1984, a class action complaint was brought in the United States District Court in Southern Illinois on behalf of 18 inmates, "and others similarly situated". The complaint alleges that Bureau of Prisons officials and members of the Marion staff, "... are engaged in a systematic pattern and practice of assault, abuse, denial of access to the courts, racial and religious discrimination, property deprivation, and harassment of prisoners at Marion . . . that general population prisoners at Marion, with the exception of approximately 40 prisoners housed in 'B' Unit are in fact being held by defendants in Control Unit status, but without any wrongdoing, without any prior notice of acts which would justify their placement in that status, without any periodic review of placement in the status and without any notice of the means by which they may be released from that status . . ." <sup>9</sup>

In August, 1984, lawyers representing the same group of inmates filed a "Motion of Preliminary Relief Re Brutality" in the District

<sup>9</sup>Bruscino and others v. Carlson and others, CU84-4320 Class Action Complaint for Declaratory Judgement Injunction Relief and for Damages and Demand for a Jury Trial, June 29, 1984.

Court of Southern Illinois. This action asks for an injunction to restrain the Marion Staff, ". . . from beating, torturing, and abusing plaintiffs; from using illegal rectal searches and unwarranted strip searches as a means of humiliating and terrorizing plaintiffs

" 10

In addition to allegations of beatings and complaints about forced rectal probes and destruction of personal property, this motion alleges that the inmate plaintiffs were forced to undergo repeated x-rays and were confined to dry cells (hospital cells with no sink or toilet facilities) in handcuffs and leg irons for periods of time up to four days; that two of the plaintiffs were subjected to forced drugging by injection, that three of the plaintiffs were chained to beds in handcuffs and leg irons for periods of 26, 30 and 36 hours; that officers threatened and verbally abused inmates and that the most likely targets of "brutalization" are inmates "who protest the conditions of confinement or who disrupt the prison routine in any way." 11

Complaints in addition to those listed in the suits which were conveyed to the consultants in our interviews at Marion included allegations that staff has not provided adequate protection for certain inmates from other inmates<sup>12</sup> (including the charge that the staff observed, but did not intervene quickly enough to save the life of inmate Hubbard who was beaten to death by another prisoner in April, 1984); that proper compensation or restitution has not been provided for the loss of personal property that was confiscated and then destroyed or lost; and that inmate medical problems did not receive attention or were improperly treated.

Since the lockdown many inmates, their lawyers, the members of some inmates' families, and representatives of the Marion Prisoners Rights Group and the National Prison Project of the American Civil Liberties Union have communicated their grievances and concerns to Members of Congress, particularly to members of the House Judiciary Committee. On March 29, 1984, the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the House Judiciary Committee, as part of its oversight function, held hearings on the Marion Penitentiary. Lawyers representing the National Prison Project argued that the crisis related to the deaths of the officers in October, 1983 has passed and that the prison, except for the Control Unit, should return to normal operations. Concern was expressed about the high level of inmate resentment over events that were said to have occurred during the lockdown, including verbal and physical harassment, the use of unnecessary force and the confiscation of personal property. It was also argued that the criteria for placement in "B" Unit were unclear and that no justification had been presented by the Bureau of Prisons as to why 40 inmates had been singled out for transfer to "B" Unit or why the Bureau felt it necessary to subject the majority of general

<sup>10</sup> Ronnie Bruscano, *et al* Plaintiffs v. Norman Carlson, *et al* Defendants, No. 84-4320, Motion for Preliminary Relief RE Brutality, U.S. District Court, Southern District of Illinois, filed August 6, 1984.

<sup>11</sup> Bruscano v. Carlson, *Ibid.*, p. 7.

<sup>12</sup> (In June, 1984, there were 41 inmates in a population of 346 who were locked up in G Unit, Administrative Detention, at their own request.)

population inmates to lockdown conditions when the violence directed against staff involved only a small number of inmates.

A National Prison Project witness proposed that a panel of outside experts be appointed to conduct an inquiry concerning allegations of brutality and shakedown procedures used in the initial stages of the lockdown and that the experts also investigate the plans of the Bureau of Prisons to modify the physical plant at Marion and to make permanent the lockdown regimen. At the same hearing the President of the American Federation of Government Employees expressed concern over the level of staffing in federal prisons, urged that classification procedures be improved to assure that inmates are housed in prisons at their appropriate security levels and recommended that the Justice Department prosecute all inmate assaults on staff, that Congress require the Bureau of Prisons to report on efforts to assure the safety of employees and that the subcommittee "... commission an independent study to examine the Federal Prison System including staff and personnel policies and recommend the legislative remedies to this committee to bring facilities and inmate population into balance. . . ."

In August, 1984, the authors of this report were appointed consultants to the Judiciary Committee and asked to conduct a limited investigation of the events leading up and following the lockdown at the U.S.P. Marion. The committee allotted compensation for 10 day's work which did not allow sufficient time for the consultants to address many issues about which concern had been expressed. Given the time and resources provided for this investigation we informed committee staff at the outset that we could not undertake a systematic inquiry into the many allegations of "brutality" that Marion inmates or their lawyers communicated to Members of Congress. (The brutality complaints by inmates are in the process of being examined as key elements of the class action suit and the request for an injunction filed in the Federal district court of Southern Illinois.) Similarly we did not address the alleged loss of property by inmates during the shakedown that accompanied the lockdown in as much as there is a tort claim process that specifically addresses such grievances. Given the seriousness of the violence involving both staff and inmates at Marion during the past 18 months, the high level of tension between inmates and staff, and the severe constraints on inmate movement, activities, privileges and the inmates contend, on their constitutional rights, that have been imposed by the lockdown, we have focussed most of our time and effort on the lockdown itself, particularly on the implications of the lockdown and the events of the past year for the current and future safety of inmates and employees.

In addition to a week long onsite visit we asked for and promptly received from the Bureau of Prisons a wide variety of documents and reports, including a report labeled as "secret" by some inmates, of the 1981 Bureau plan to convert Marion to a control unit type prison. Among the materials we have reviewed are the following:

1. Reports and Studies on USP Marion, including its mission:
  - a. The November 1981 study by the North Central Regional Office entitled "Program and Procedures Review of USP

Marion", and relevant attachments including task force reports.

b. Task Force Report on USP Marion, 1983.

c. Other studies or reports on Marion from 1978 to present, including the work stoppages in 1980 and the Bureau's response to them.

2. Staffing information:

a. Staffing guidelines for Marion.

b. Staffing complement at Marion on October 22, 1983, and thereafter.

c. A report on the retirements, resignations, and other terminations of Marion employees on and after October 22, 1983, including employees on extended disability leave.

d. Training criteria for new and continuing Marion employees.

3. Investigative and related reports subsequent to October 22, 1983:

a. Board of Inquiry related to the deaths of the two officers on October 22, 1983.

b. All incident reports filed at Marion on or after October 27, 1983, including resolution of such claims.

c. All complaints filed by inmates on or after October 27, 1983, relating to allegations of beatings, mistreatment, or harassment by Marion employees or administrators, and Bureau responses or investigations of such claims.

d. All complaints filed by inmates on or after October 27, 1983, relating to lost or destroyed personal property, including legal and religious materials and other personal items.

e. Other investigative reports subsequent to October 27, 1983, relating to Marion, including internal memoranda.

4. Procedures:

a. Marion institutional supplements in effect on October 27, 1983, and subsequent amended or new supplements.

b. Copies of all memoranda issued to inmates on or after October 27, 1983.

c. Copies of all memoranda, directives or other documents issued to employees and administrators at Marion on or after October 27, 1983, including procedures during the post-October 27 shakedown of inmates cells and the seizure of their personal property.

d. Copies of all memoranda or directives relating to access to attorneys at Marion.

5. Other materials:

a. Copies of all court orders relating to Marion (conditions) and current lawsuits, including pleadings.

b. Reports and plans for Marion and for the placement of Marion-type prisoners, including new units or facilities.

c. Copies of studies by the Bureau of Prisons research division relating to Marion or Marion-type prisoners.

d. A list of all inmates who were at Marion on October 27, 1983, and their current placement.

e. A list of all inmates (by unit) at Marion just prior to the visit of consultants.

f. Procedures for placement at Marion and placement within Marion (e.g., Control Unit and B Unit), as well as for transfer out of Marion.

On site the consultants met with the Warden, the Executive Assistant to the Warden, the Associate Warden, the Captain, the Security Squad Lieutenant, the President and Vice President of the Officers Union, a senior administrator of the disciplinary committee, several officers who have worked at Marion for many years, an officer transferred from another federal prison to Marion during the past year, a representative from the educational department, the chief medical officer, a newly employed physician, a physician's assistant and one of the Chaplains. We had extended conversations with the Control Unit Manager and a Senior Control Unit Lieutenant and many other officers as we visited various departments and units throughout the prison. We received a very helpful briefing from the senior FBI agent assigned to investigate violations of federal law at Marion.

The Judiciary Committee staff provided us with the names of inmates who had written to members of Congress as well as summaries of their complaints grouped into categories such as "state prisoner transfer requests or issue of placement", "federal prisoner placement (at Marion) questions", "dangers to life in 'population'", "legal complaints", "medical complaints", "allegations of assaults" and "general and other complaints" (such as "harassment by staff", "wants to report observation of beatings of other inmates", "failure to receive a transfer to "B" Unit", etc.). We met in the town of Marion with lawyers from the Marion Prisoners Rights Group and were provided with additional lists of names of inmates wishing to be interviewed in regard to "beatings, forced rectal searches, prisoner/prisoner violence, staff instigation of racial conflict, fear of reprisals, failure to protect inmates, violations of religious freedom, difficulties in perceptions of access to courts, the grievance procedure, problems with mail, visits, telephone calls, medical care and use of box car cells". The MPRP Lawyers listed other prisoners under the heading, "effects of lockdown conditions" and contended that these men were being denied psychological evaluations and treatment and were said to be suffering "increasing stress and psychological damage". Many inmates' names appeared on all of our lists and some inmates had complaints in many categories. Given the limits on out time we chose to give particular attention to inmates in the Control Unit and to men in the former "box car" cells in "I" Unit, Disciplinary Segregation—those units which produce the largest number of complaints and where lockdown restrictions are most severe. Because all of the inmates at Marion, outside of the men in "B" Unit, are moved out of their cells only in handcuffs and leg irons and with an escort of three officers we requested assistance in expediting a series of interviews we wished to conduct with inmates away from their cells and living units. Warden Williford provided a special seven man squad to expedite this process and we were able to meet in the prison's contact visiting booths for periods of 45 minutes to an hour with 16 inmates we selected from various units throughout the prison. The inmate's leg irons and handcuffs were removed during the course of our interviews.

We also intended to conduct some interviews with Control Unit inmates in the privacy of the Control Unit Manager's Office in that unit but the first inmate called out advised us that further interviews should be conducted through cell bars since 1) the inmates did not wish to submit to another order to "cuff up" and another search, and 2) inmates in the Control Unit did not fear that their conversations with us would be overheard since their grievances were already well known to the staff. Our interviews from this point on were conducted as we went from cell to cell on all four ranges of the Control Unit and on the isolation range of the Disciplinary Segregation Unit. As we moved down the ranges we asked each inmate if he wished to discuss any matter with us and most chose to be interviewed. (We did advise several inmates that questions regarding legal actions they wished to take should be referred to their attorneys or to the organizations which represent inmate complainants—the Marion Prisoners Rights Project and the National Prison Project of the American Civil Liberties Union.)

In addition to private interviews and conversations with inmates and staff in the various units we toured the hospital, the recreation yard, the chapel, the indoor recreation areas, the gym, the dining room, and the visiting area. We inspected restraint equipment and internal documents reporting assaults, killings, forced cell moves and body searches. We sat at tables in the dining room as groups of "B" Unit inmates were served and held informal discussions.

No information, document or report that we requested from the Marion staff or the Bureau of Prisons was refused. Every interview we requested with administrators, officers and inmates was promptly arranged. We were given complete freedom to move about all areas of the prison and to stop and talk with any inmate and employee.

During the course of this investigation six Marion inmates being boarded at a high security state prison were interviewed and the opinions of several state correctional administrators were sought on control unit policies and procedures in their jurisdictions. We also met in Washington, D.C. with the Director and Assistant Director of the Bureau of Prisons to review the role of U.S.P. Marion in the Federal Prison System and we discussed issues related to the lockdown with staff attorneys from the National Prison Project. Every person interviewed for this report was acutely aware how high the stakes are for the inmates and employees who are confronting each other at Marion and most respondents clearly understand that Marion poses a policy problem in which lives are on the line but where ready solutions are not apparent. A number of our recommendations reflect the comments and suggestions of persons we interviewed during the past few months and our proposals are advanced with the view of contributing to policy and program discussions that have been or are currently being studied by the Bureau of Prisons and other interested parties.

#### STUDY FINDINGS AND RECOMMENDATIONS

The proposals which follow are based upon the consultants' acceptance of the statements of all of the staff interviewed at Marion, as well as the opinions of many of the general population inmates

with whom we spoke, that ending the lockdown in the general population units at this time would likely result in serious acts of violence against staff and inmates. The validity of these claims is supported by the fact that approximately 45 percent of the inmate population confined at Marion at the end of October 1983, has been transferred to other federal or state prisons, released on parole or released to detainees. The great majority of the inmates moved to institutions on lower security levels were transferred because their conduct was not considered by the Marion staff to be strongly negative. These men are the closest Marion has to "white hats"—inmates who do not threaten staff or inmates, who are willing to work and who generally abide by prison rules. The men not transferred from Marion during the past year include a majority of the Control Unit inmates (17 Control Unit inmates have been transferred to other prisons since the lockdown); inmates who have resisted cell moves and searches with force; inmates who have threatened, assaulted or killed staff and other inmates; inmates identified as prison gang leaders and/or organizers of protests and disturbances during the past year; and inmates considered to be extreme escape risks because of their connection to gangs, criminal organizations or political groups which may use violence to assist or free their members. In other words the inmates least likely to retaliate against staff or other inmates if the lockdown was ended are the same inmates who have been (and will continue to be) the men most likely to be transferred from Marion. The 130 or so inmates who have been transferred to Marion during the past year are inmates who posed the most serious management problems at other prisons and many of them resent the fact that while they were not present at Marion during the events that precipitated the lockdown of general population units, they are nevertheless suffering its consequences.

A second factor in understanding the current state of staff-inmate relations is that many of those inmates who have been at Marion since the lockdown was imposed feel and express great anger at their circumstances and the actions taken against them during the past year. The strip searches, the rectal examinations, the loss of previously allowed personal property, the requirement that all movements out of cells be made in handcuffs and leg irons, the limitations on all activities including visits and telephone calls and the elimination of opportunities to engage in joint or congregate activities with other inmates have helped the staff bring down the rate of serious assault at Marion, but these actions have been interpreted by many in the present inmate population as elements in a concerted effort to demean, degrade and humiliate them. For men who have seriously injured or killed other prisoners over insults or for challenging their courage or masculinity, their response to the measures employed at Marion to control them would not seem likely to be benign. The hostility of some Marion prisoners is however not only felt and expressed toward staff members but also towards certain other inmates who are regarded as "sell outs" to the cause of inmate resistance. This hostility applies particularly to the inmates in "B" Unit who are seen as having accepted special privileges in exchange for allowing the staff to report to the press and the public that law-abiding inmates are carrying on more or

less normal activities at Marion, including going to work, walking without handcuffs and leg irons and enjoying congregate dining and recreational activities. Still other prisoners have drawn the wrath of inmate gang leaders and inmates charged with illegal activities because they have informed or are reputed to have informed the staff or the FBI about past, present, and future plots, plans and actions of some of their fellow convicts at Marion.

While more than 40 percent of the inmate population has changed during the past year, it should also be noted that the great majority of the custodial staff are the same men who will never forget the events of Fall, 1983. They have enforced the lockdown during the course of which many have laid hands and used force on inmates who have promised them, again and again, that they *will* pay for those actions. Almost every senior administrator at Marion as well as middle management and rank and file employees stated firmly that half or more of the custody staff would walk off the job if the lockdown ended. The lockdown has reduced the number of serious injuries to inmates and staff but the filing of more than 100 disciplinary reports and more than 170 inmate grievance reports each month during the first 9 months of 1984 provides evidence that staff-inmate relations are still very much strained. *It is the consultants' view that the present and immediate future at Marion holds serious risks for injury or worse for inmates and officers. Under these circumstances it is our conclusion that the lockdown of the general population units should not be lifted at the present time. Readers should not interpret from this conclusion however that the consultants recommend that the prison be indefinitely operated at the level of control that has prevailed during the past year. Rather we make a series of recommendations which address both long term policy issues and immediate concerns for which we urge prompt and serious consideration.*

#### LONG TERM POLICY OPTIONS IN MANAGING LEVEL 6 INMATES

The Bureau of Prisons would appear to have several options which might help to avoid or alleviate the set of circumstances that characterize Marion at this time. We list these possibilities but because their implementation would require many months or in the case of constructing a new prison, several years, immediate attention to them is not as important as attention to the short term options which follow.

1. *Construction of a "new generation" level 6 prison along the lines of the Minnesota Correctional Facility at Oak Park Heights.* At the time Marion was constructed it represented the state-of-the-art for a maximum security institution. The design features however lack many of the current security and program elements necessary to safely operate a confinement program for the type of inmate found in administrative segregation units. To retrofit Marion into a modern penitentiary designed for the custody and care of highly dangerous offenders would not be cost effective. What is needed in the Federal Prison System is an institution which incorporates the latest in technology and program features within its new concepts of control and security.

New generation prisons are generally comprised of 6 to 8 physically separated units within a secure perimeter. Each unit of some 40-50 inmates, all in individual cells, contains dining and laundry areas, counselling offices, indoor game rooms, a wire enclosed outdoor recreation yard and a work area. The physical design of inmate rooms calls for only one or two levels on the outdoor side(s) of the unit to facilitate, from secure control "bubbles", easy and continuous staff surveillance of all areas in which inmates interact with each other and with staff. In prisons designed for unitized operations large groups of inmates within the same physical perimeter may be kept completely separate from each other while being housed in small enough groups to allow congregate activities on a unit basis. An array of self-contained units makes it possible for inmates with different characteristics, criminal records and personal needs to participate in a variety of programs. One unit for example, might house inmates with chemical dependency problems, another unit can be used for observation, diagnosis and short term treatment of stress and mental health problems, other units can house inmates who want to work or go to school and still another unit can be used for disciplinary segregation. (Bureau of Prisons Policy Statement 5212.1, developed in 1973, called for Marion to offer inmates an incentive system by operating graded units with increasing privileges, program options and increasing freedom for individual and congregate activities within the unit.) The new generation prison represents an effort to allow for both concentration and dispersal of a system's most serious management problems in one facility but implementation of such a plan requires the physical design of a unitized new generation prison. Prisons such as Oak Park Heights are costly in both capital outlay and operational costs but costs at the most secure end of the nation's prison system must be measured not only in financial terms but also in terms of risks to the safety of staff and inmates.

2. *Construction of control units in penitentiaries in each of the five regions that comprise the Bureau of Prisons.* The current facilities plan of the Bureau of Prisons is based upon the projection that about one percent, or some 350 of the 32,000 inmates currently in the federal prison system, will require confinement in a level 6 penitentiary/control unit facility. One of the problems with having only one location for level 6 inmates in a national prison system is that travel to rural southern Illinois for family members and lawyers is difficult and costly for all inmates. Since one assumption in the operation of a level 6 prison is that inmates need to be kept apart from other inmates<sup>13</sup>, a logical option to encourage personal, human contact of a positive nature is to enhance the opportunities for these men to have more frequent visits with wives, girlfriends, parents and other family members. Division of the current Marion inmate population which includes inmates from almost every state in the Union including Alaska and Hawaii, as well as residents of the District of Columbia, Puerto Rico and the Virgin Islands, into

<sup>13</sup> (Control and segregation unit inmates are completely separated for all activities, inmates in the east wing residential units congregate only in randomly selected groups of four for recreational activities; only "B" Unit inmates are allowed congregate activities.)

Control Units in prisons in the regions in which they live would expedite family contact and communication.

A regionalization plan would allow the Bureau to keep the same one percent of the inmate population in the most secure facilities in the federal system while affording inmates and staff the opportunity to get some relief from each other. Because inmates spend an average of 4.5 years at Marion, with terms up to 48 months in the Control Unit, conflict between individual inmates and individual staff members can build and increase in intensity as inmates and officers confront each other day after day, month after month, in situations which can be provocative or dangerous for all concerned. The inmate threatening or resisting a search or cell move and the officer who must face him, each prepared to use force to protect himself, each believing that the other's threats against him are sincere, and each ready to do what he thinks is right, are locked into continuous confrontation. And, the more serious the level of conflict, the longer the inmate will remain in the Control Unit at Marion. An attorney who represents a number of Marion inmates, calls this feature of prison life, "the personalization of conflict." This phrase appropriately describes the inclination of some inmates to focus their frustration, anger and hostility on one or two or a small number of staff members and for some employees to develop particularly antagonistic feelings toward certain inmates. If Control Units were established on a regional basis, the Bureau of Prisons, through periodic transfers, could allow both inmates staff a change of location and some relief from each other. Inmates, additionally, would be allowed some relief from protracted contact with the same small group of convicts some of whose loud, threatening or continual talk or whose annoying actions or personal habits aggravate daily life in the extraordinarily compressed atmosphere of a Control Unit.

Having a number of Control Units would also allow the Bureau of Prisons to try various program options on an experimental basis. One of the greatest challenges to penal policy makers is the need to control the most violent prisoners in the country while at the same time exercising creativity in trying to devise and then try, on an experimental basis, activities that will not contribute to further deterioration of these inmates—deterioration which can lead in turn to greater risks of serious injury to staff, other prisoners, and often to the community upon the inmate's eventual release. Unlike the option of designing and building a new level 6 unitized prison, some steps toward a regional model have already been taken by the Bureau through its request to Congress for funds to establish Control Units at the Atlanta Penitentiary and at the Correctional Facility at Englewood, Colorado.<sup>14</sup> Under a multi-Control Unit plan, Marion would continue to operate its Control Unit for level 6 inmates, but the general inmate population could be managed and allowed the same program options offered at other level 5 prisons.

This policy option may be regarded as a dispersal proposal but a system containing a number of Control Units also assumes the need to completely separate problem prisoners from the main pop-

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<sup>14</sup> This request is intended to provide secure settings for 2 specialized groups, Cuban prisoners and youthful offenders.

ulations of prisoners. Concentration then is still intended but on a regional rather than a national basis.

It should be noted that the development of additional Control Units in other federal prisons for the reasons mentioned above, and particularly as a means of dealing with the social, psychological consequences of prolonged yet intense personal contact in a Control Unit setting, was suggested or regarded positively by a number of the Marion staff interviewed for this study.

#### SHORT TERM RECOMMENDATIONS

Planning and building physical facilities takes time, time that cannot be afforded before other means to ease the situation at Marion are sought and tried on an experimental basis. In the light of the Bureau of Prisons decision to operate Marion as an administrative segregation institution, it is important that inmates, staff and other interested parties understand this decision and that the Bureau articulate in specific terms the difference between a locked down prison and an administrative segregation prison. This is more than a semantic change. A prison that is locked down is expected to unlock. An administrative segregation prison operates under a definite plan and program designed to deal with seriously disruptive and dangerous prisoners. An administrative segregation program has as its objective the planned movement of inmates from the most secure setting to units with decreasing regimentation and increased program opportunities until transfer is warranted to a traditional prison environment.

Whether Marion is an administrative segregation prison, or whether it houses and programs the federal prison system's most dangerous inmates on a temporary basis until more appropriate facilities can be constructed, the following proposals are recommended. It should be noted that many, perhaps most, of the proposals speak to areas of penal policy and practice that have been or continue to be the subject of study and discussion by the senior administrative staff at Marion and by staff in the Bureau of Prisons Regional and Central Offices. Our proposals are intended to focus attention on those policies or features of daily operations at Marion which our study found to be particularly sensitive, complicated or dangerous. We hope that these recommendations will merit the Bureau's attention as it seeks to chart a course through new and dangerous waters.

1. *The Bureau of Prisons should halt the use of forced digital rectal examinations for non-medical reasons.* No other action taken by the Marion staff during the past year has elicited anything close to the level of rage produced by digital rectal exams.<sup>15</sup> And, it is not only those inmates who have experienced "finger waves" because of suspicion that they might be concealing contraband who have reacted with anger and indignation. This procedure is applied to all inmates who leave Marion for a court appearance whether or not they are suspected or have been reported by other inmates to be carrying contraband. (The reason that even "white hats" or generally rule-abiding inmates undergo rectal exams is that the staff

<sup>15</sup>The colloquial term is "finger waves".

are of the opinion that many inmates can be threatened or coerced into carrying contraband back to the prison after a trip to the outside world.) Finger waves are regarded by the inmates as akin to the kind of sexual contact that only applies to homosexuals and "punks" <sup>16</sup> and this procedure therefore evokes highly charged responses from a group of men for whom strength, control and domination are key values. It should be noted that many of the employees we interviewed expressed their own negative reactions to finger waves but felt that the staff had no alternative but to conduct them since in some cases contraband has been detected that might have cost the lives of staff members. (Marion records indicate that during the period from the lockdown through the first six months of 1984 digital examinations were ordered in 67 instances. In 13 of the 67 examinations "hard contraband"—small knives or sharp instruments, hacksaw blades, handcuff keys—was found.) The cost of conducting finger waves has however been very high in terms of fueling inmate rage, resentment and determination to seek revenge for a procedure that they regard as "anal rape".

The intrusive examination of a person's body cavities which cannot be observed by a visual search requires knowledge and training which laymen do not have. The ability to sensitively determine by finger touch the difference between a fissure in the alimentary canal wall, impacted fecal matter or a balloon filled with drugs requires the skills of medically trained personnel. The potential danger of damage or infection to the lower segment of the large intestine or the prostate gland is always present. The decision to determine whether there is a foreign object in the rectal area, the method to be used to confirm a tentative diagnosis, and the method by which the object can best be removed, would clearly appear to be a medical decision. The American Medical Association however, while debating the issue of medical personnel participating in executions in 1980, complicated the discussion regarding rectal searches. The AMA took the position that health providers should not participate in activities relating to carrying out a death sentence. This decision was based upon the argument that an execution was the carrying out of a legal order, not an approved medical procedure and this position seems to have influenced AMA policy in regard to digital searches. After noting in their resolution that the subject of searches of body orifices was a topic which had generated considerable controversy, the Board of Trustees agreed to the following policy:

"Since the searches of body orifices are conducted for security reasons, not medical reasons, the examination should usually be performed by correctional personnel who have been given medical training."

Few practitioners in the field of corrections, be they custodial or medical personnel, agree with this position. The consultants discussed this issue with physicians from three medical schools as well as numerous state correctional administrators and propose that the Bureau of Prisons consider the following guidelines in regard to rectal examinations:

<sup>16</sup>Prison jargon for one who submitted to homosexual acts.

A. Body cavity searches should be considered only when there is probable cause to believe that an individual may be carrying hard contraband that would threaten the security of the prison, its personnel or other inmates. Forced digital searches at Marion for the purposes of detecting drugs would therefore not be conducted. Other methods such as confinement in a "dry cell" may be employed in cases where there is reason to believe that drugs are being carried in the alimentary canal.

B. In those cases where an investigation is being conducted into the possible concealment of hard contraband in the body, alternatives to finger probes should be employed. Since there appears to be negative medical opinion in regard to using x-rays on an individual more than once or twice a year and the use of "dry rooms" in the prison hospital may require one or two days time to allow natural body functions to discharge items contained in the alimentary canal, the possible application of sonographic techniques (ultrasound) should be explored. Sonography is painless, requires no bodily intrusion, does not carry the risk of x-rays, provides immediate results and can identify objects made of metal, plastic, wood, or other substances. Sonographic testing would allow the 80 percent of the inmates who do not test positively (e.g., 54 of the 67 inmates tested) to forego the manual probes. In that very small number of cases where sonography (or a metal detector or other sensory device) has indicated a concealed object, the inmate should be so informed and allowed to ask for medical assistance or the opportunity to remove the object himself or that he be placed in a dry cell to allow natural bodily functions to accomplish removal. Only after every other detection method has been used and alternative methods of removal have been rejected by the inmate should medical personnel consider the use of a forced digital probe. If any body cavity search is performed it should be performed only by health care personnel with appropriate medical training and with consideration for the discomfort and feelings of indignation and humiliation that men will feel for a procedure that is justified not for medical reasons but for security reasons. (We strongly advise against the recommendation of the American Medical Association that correctional officers be trained to conduct digital examinations.)

2. *The Bureau of Prisons should reconsider its own plan, developed in 1973, to establish graded units at Marion to provide incentives for inmates and to allow experimental programs to be tested.* The Bureau of Prisons has an opportunity to exercise its national leadership not just in controlling predatory and escape-prone inmates but also by seeking to find methods, many of which when tried will fail, to improve the living conditions for inmates and the working conditions for staff in the high security prisons in this country. All inmates at Marion, including the Control Unit inmates, should have some positive incentive in terms of opportunities for movement to increasingly less restrictive living units. Furthermore, a graded system of general population units may help to mitigate the stigma that currently goes with the assignment to "B" Unit, the only unit at Marion that has more privileges than the others. A graded system of units would offer some of the advantages listed under our long term recommendations including the opportunity for inmates to get a change of faces and living condi-

tions and the opportunity to live in units with different program alternatives. A system of graded units would also provide an opportunity for relief from the lockdown regimen for inmates transferred to Marion during the past year who have no responsibility for the events that precipitated the lockdown. The physical plant cannot be modified to make Marion a genuine new generation facility with an array of completely self-contained units within which inmates can carry on all daily living, work and recreational activities, but the operation of the East Wing residential units could be modified to provide a series of living arrangements with increasing privileges, movement and program options. Eating arrangements for example might allow inmates to progress from eating in a cell to eating one or two meals with other inmates out of cell but within the unit to allowing the unit to go to the prison dining hall. The same progression from total restraint to the "B" Unit prerelease program could also be applied on an experimental basis to recreational, religious, and work opportunities and to the use of handcuffs and leg irons. (Exceptions to the graded system would be the rights of all inmates, including Control Unit inmates, to legal materials, to legal and religious counsel, to medical services, and the need for all inmates to have communication and visits with family members.)

3. *The Bureau of Prisons should consider, at least until new units or facilities in the federal system are available, whether it should attempt to manage the most difficult and dangerous inmates from state prison systems as well as its own federal law violators.* State prisoners in Marion, as measured by the number of prison rule violations, are more problematic than are most of the level 6 federal prisoners. In Fall, 1984, for example, 46.5 percent of the inmates in "I" Unit, disciplinary segregation, were state and District of Columbia transfers, a proportion greater than 30 percent of the total inmate population these groups represent. An additional consequence of accepting highly problematic state prisoners is that the federal government has made a number of them their own after they have committed assaults and other crimes on federal prison property and have thus been awarded federal prison terms to accompany their state sentences. While Marion is trying to recover from the events of October, 1983, and seeking to define its new role as an administrative segregation facility, the costs that accrue to the presence of an additional population of disruptive inmates as a convenience for the states should be reviewed.

4. *The Bureau of Prisons should consider the establishment of a mental health unit at Marion.* There is very little empirical evidence pertaining to any short or long term mental health effects associated with confinement in a Control Unit or lockdown situation or of the effects of serving many months or years in a super-maximum security setting, but speculation about this matter by lawyers, judges, some penologists and the press are generally in the direction of negative consequences. Because the Bureau has changed Marion's classification from a penitentiary to an administrative segregation facility with special living conditions for inmates and special working conditions for staff, attention should be given to the possibility of negative health consequences for both groups. Employees should be encouraged to participate in stress re-

duction programs and inmates' needs could be served by a mental health unit that would provide a setting for observation, diagnosis and short term or crisis-related treatment.

Another use for a mental health unit is in conjunction with a control or disciplinary segregation unit population. For example, inmates serving time in the Control Unit at Minnesota's high security prison at Oak Park Heights are rotated to the prison's Mental Health Unit to provide a slight change of scene. (The rooms in the Mental Health Unit are larger with a somewhat different arrangement of wall colors and areas for sleeping, eating and watching television.) The opportunity to move inmates from the Control Unit, disciplinary segregation, protective custody, or any other limited privilege unit to a mental health unit also affords an opportunity identified earlier in this report, for inmates and officers to get some relief from each other in settings where daily contact and communications are sometimes hostile and always adversarial.

An additional matter related to the mental health needs of inmates and staff pertains to the credibility of the psychologists and counselors on staff at Marion during the past year. Our interviews with inmates indicate a high degree of distrust of all counseling staff, with the exception of the Chaplains. From the onset of the lockdown, all staff at Marion have been pressed into services supporting or at least not interfering with custodial operations. Because the present counseling staff are seen as either tacitly or openly supporting the lockdown, or as powerless to intervene on behalf of any inmate involved in the many confrontations that have occurred during the lockdown, the Bureau of Prisons, in the short term, should consider contracting with psychologists or counseling specialists from outside the Bureau (e.g., from the military services or federal hospitals), to provide services at Marion. At this point in time, case workers or psychologists transferred from other federal prisons are unlikely to have credibility with many of the inmates. The problem for prison department-employed counselors in any maximum security penitentiary setting is the degree to which inmates can afford to really open up and trust psychologists and psychiatrists who, unlike free world professionals, must try to serve at the same time two mutually suspicious and often antagonistic forces, the inmates and the staff. The problem for counseling staff who are often pressed into the "double agent" role is not unique to Marion or to the Bureau of Prisons and we do not assume that many Marion inmates would see themselves as needing counseling or that they would trust any free world persons with their most serious problems and concerns. It may be that only outside lawyers and possibly the chaplains with whom communication can be privileged can expect to have candid discussions with Marion inmates. Mental health professionals in this case nevertheless need to be available to educate and advise staff where inmate and staff conduct seems irrational or puzzling and to provide those inmates who seek it a professional counseling relationship that goes as far as the inmate is willing to take it. In this area of prison operation, only modest progress should be expected but experimental efforts to provide psychological support to inmates and employees would serve not only the interest of those at Marion but the

interests of men in maximum security prisons throughout the country.

5. *The Bureau of Prisons should reevaluate the confidential information feature of the security level classification system.* The Bureau's sophisticated classification system is comprised of the weighted scores from a number of items, most of which refer to elements of criminal history prior to incarceration for the present offense, and assigns a security level score from 1 to 6 for each inmate. The security levels directly correspond to the physical design characteristics of a diverse array of federal prisons.<sup>17</sup> The inmates at Marion regard their scores as the Bureau's own calculation of where they belong in the federal prison system. In Fall, 1984, these scores rate 70 of the Marion inmates at level 6 but the rest of the inmates have security ratings that would lead them to conclude they should not be at Marion but at level 5 prisons (144 inmates), level 4 prisons (127 inmates), or in the case of 2 inmates, at a level 3 institution. Part of the problem here is that security level scores are strongly influenced by items such as escapes or detainers which raise scores to high security levels but in the absence of these items an inmate who has assaulted the warden may accumulate only enough points to call for a level 4 or 5 institution. Furthermore, important information available to the staff such as intelligence data or information from confidential informants is not calculated in the classification scores but can determine prison placement by a decision of administrators to override the scores. Many of the inmates interviewed in this study complained either that they were improperly classified for Marion or that if confidential information was being used to determine their initial or continued placement at Marion they had the right to know the nature of the information being used to override their security level scores. The classification system used at Marion has however been reviewed in federal courts and no order has been issued to require the Bureau of Prisons to disclose the specific nature of confidential information to inmates. This area of concern could be resolved by a "truth-in-classification" system which would allow inmates to be informed of all items of information used to determine their security level and prison placement. The cost of this proposal, however, is that it would likely jeopardize the confidentiality of informants and intelligence sources, a cost that would be judged by the Bureau of Prisons to be too high. One alternative, given the intention of the Bureau to take confidential information into account is to officially downgrade the significance of the classification scoring system and

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<sup>17</sup> The classification system in place at Marion is described in a 1980 report by the Bureau of Prisons Research Division as follows: "The system considers thirteen variables and assigns a numerical rating based on the severity (and recency of commitment) of the variable being considered. Six variables address the institutional designation (security level) while the remaining seven determine the custody level within the institution. The six variables for assessing the designation dimension are: Type of Detainers, Severity of Current Offense, Projected Length of Incarceration, Types of Prior Commitments, History of Escapes or Attempts, and History of Violence. The factors which comprise the custody level include: Percentage of Time Served, Involvement With Drugs and Alcohol, Mental/Psychological Stability, Type of Most Serious Disciplinary Reports, Frequency of Disciplinary Reports, Responsibility Inmate has Demonstrated and Family/Community ties."

inform inmates that at upper level security facilities staff judgment will sometimes override formal classification scores.<sup>18</sup>

6. *The Bureau of Prisons should consider further steps to facilitate inmate access to legal materials.* In a lockdown prison where the level of frustration and anger is high because freedom is so limited and because opportunities to participate in the work, recreation and other activities allowed even in other maximum security penitentiaries are so limited or non-existent, the need for inmates to be able to lawfully express their emotions and to seek relief from their circumstances is especially important. In those situations where one's freedoms are most drastically curtailed, such as prisons and Control Units, the federal courts have evidenced special concern that punishments and restrictions not violate constitutional rights. The inmates at Marion therefore have the right to take their grievances to the courts and they consequently have the right to access to legal materials and to legal counsel to assist them in the preparation of their complaints and grievances.

Since October, 1983, the inmates at Marion have not been allowed to visit the main law library. Basic or mini-law libraries have been established in each of the units and four have been created on each range of the Control Unit. Inmates have access to these small basic libraries on a regular basis and inmates, with the exception of those in the Control Unit, may receive assistance from another inmate who resides on the same unit in doing legal research or preparing legal documents. Books may be borrowed from the main law library but may not exceed three volumes at any one time. Basic research materials in the main library are generally limited to one copy which means that on some occasions inmates may have to wait for some time before they can check out an item for use in the Unit library. Currently inmates have no means to find case citations so that they can request the proper federal reporters, nor is there any descriptive word index for The American Jurisprudence which would allow them to request a specific volume (section) if they wish to obtain an overview of a particular topic. Typewriters are not allowed in any unit except "B" Unit as a consequence of earlier incidents in which inmates used metal pieces from typewriters to construct weapons and keys. Currently there is no xeroxing service available although carbon paper and pens are provided at government expense.

The consultants heard many complaints about lack of access to legal materials and complications in meeting with attorneys. Inmates and several attorneys contended that attorneys sometimes waited for one to two hours to see their clients even though an appointment time had been previously established; that institution staff threatened inmates with beatings and retaliation if they pursued litigation regarding actions or conditions at Marion; that in-

<sup>18</sup> Another complaint heard from many inmates is that men were sent to Marion not because of their security level scores but to relieve over-crowding in other federal prisons. Some transfers for this reason were ordered in the early 1980's but in the Fall, 1984, Marion officials reported there were no inmates confined at Marion to relieve population pressures at other prisons. To determine whether those inmates currently assigned to Marion are appropriately placed would require an intensive review of the Bureau's classification system and a study of classification decisions made on a sample of inmates assigned to Marion. The limited time available for this study did not allow such an effort. Such an evaluation would be appropriate at this time and should incorporate a risk assessment component.

mates who go to court are subject to rectal searches upon leaving and upon returning to prison—a procedure seen as a form of reprisal for taking grievances in the legal arena; that legal mail clearly marked as such is often opened and read before it is delivered to an inmate; that legal materials removed from cells during shakedowns have been lost or destroyed; that the grievance system seldom responds positively to the complainant's request and that the Regional and Washington, D.C. offices of the Bureau do not meet the time requirements for responding to grievances set forth in the Bureau's regulations.

The veracity of all of these allegations regarding violations of inmate legal rights could not be determined in the limited time allowed to the consultants. Generally, the Marion staff appears to be trying to follow Bureau of Prisons administrative procedures but security considerations seem to have often complicated some of these efforts. To facilitate improvements in the procedures which allow inmates access to legal materials and the courts, we suggest the following:

A. Basic or unit law libraries should include in addition to the current reference documents, the following: (a) the U.S. and Federal Shepard's Citations, (b) Manville and Boston's Prisoners' Self-Help Litigation Manual, (c) Federal Rules of Civil Procedure, (d) Federal Rules of Criminal Procedure, (e) Descriptive Word Index of West's Modern Federal Practice Digest.

B. The main law library should be provided with additional copies of basic legal research materials to avoid delays to inmates in obtaining access to these materials.

C. The main law library should be provided with the appropriate legal research materials that would be required for state prisoners confined at Marion to bring an action in a state court.

D. An attorney visitation log should be developed which would indicate the appointment time agreed to by parties, the time the attorney arrived at the institution, and the time that the inmate client was delivered to the meeting. Such a log would allow the staff to determine the frequency and length of delays.

E. The inmates at Marion are currently using the Bureau's administrative remedies procedures at the rate of 170 grievances per month. A review of the log kept on these grievances indicates that the Marion staff regularly responds within the stipulated time limits but there appear to be delays at regional and headquarters levels. A review of the appeal process should assure that the processing of grievances is expedited according to the Bureau's regulations.

7. *Questions about the needs, requirements and religious rituals of American Indian, Jewish and Muslim inmates should be referred to appropriate tribal councils and religious authorities for resolution but all religious groups should have equal access to inmates.* Among the restrictions that comprise the lockdown at Marion is the prohibition against any congregate inmate activities (except in "B" Unit) including recreation, dining and religious ceremonies. Two chaplains, Bureau-employed, one Catholic and one Protestant, provide counseling and fulfill religious requirements on an individual basis through cell bars. Non-Christian segments of the inmate population, particularly several Native American and Jewish pris-

oners, complain that they have been denied equal access to representatives of their religious faiths. Indian inmates complain that items of religious significance such as pipes, eagle feathers and medicine bags were confiscated in the shakedown of personal property last Fall and have not been returned. Access to inmates by a Rabbi or Iman is constrained to the extent that these clergymen must visit inmates in the company of either the Protestant or Catholic chaplain. Indian inmates have been informed that if a medicine man or spiritual person visits them, such visits will be non-contact, that is conducted behind glass. They of course characterize this position as being racist since it suggests that an Indian medicine man might attempt to smuggle contraband into the institution, while non-Indian Protestant and Catholic chaplains would not. Whether or not one regards the special population at Marion as the last group of men likely to be guided by the principles of any religion, the inmates do have a constitutionally protected right to exercise religious freedom. We should also note that while the Bureau chaplains, in a penitentiary where all members of the staff including case workers and psychologists are regarded by the inmates as firmly committed to the enemy camp, are seen as relatively powerless to take any significant action on behalf of the inmates, they are the only Bureau employees who are not locked into a hostile, adversary relationship with prisoners. Their importance, and the importance of having clergy from other religions have equal access to inmates, does not lie in the prospects of converting the Marion convicts into law abiding citizens, but in the need for inmates to have some human relationships with persons who are interested in and attentive to their view of the world and who can communicate with their family members.

The questions for the Marion staff in regard to religious activities include the desire of Indian inmates to have eagle feathers, sage and the sacred pipe, to have personal contact visits with their medicine men, and to allow congregate worship of at least four inmates to honor each sacred direction; Islamic inmates seek equal access to Muslim ministers and the return of prayer rugs; and Jewish inmates request kosher food, and access to a Rabbi, equal to that of Protestants and Catholic prisoners. In these matters we suggest that the Bureau of Prisons seek to establish working relationships with duly authorized representatives of each religious group and seek counsel from them as to the specific spiritual requirements of each religion. Equal access by inmates to authorized representatives from each religion should be ensured. Counseling visits for inmates who are not members of the major faith groups should be visits with the same contact allowed for their lawyers.

At a level 6 penitentiary there will always have to be an accommodation between security needs and constitutional requirements to provide opportunities to exercise religious freedom. Large congregation worship services for all inmates may not be appropriate at Marion but if it is safe to exercise small groups of 4-5 general population inmates and if it is safe for inmates in "B" Unit to eat together and work together, the Bureau should consider as part of a graded unit system allowing small groups of inmates to worship together, particularly in those cases where group worship has been determined to be a legitimate feature of religion.

At present the installation of television sets in the cells of general population inmates (Control Unit inmates also have individual TV sets), allows inmates of the major faith groups to view live or taped religious services although to the best of our knowledge video tapes that meet the needs of Indian inmates are not available. Consultation with tribal authorities on this matter along with those religious questions raised earlier should be sought. Religious articles should be allowed in cells as part of personal property as long as they do not violate institutional security and property regulations and are consistent with the requirements articulated by representatives of the various religions.

8. *The Bureau should explore means to reduce the stress that comes from working in a prison where staff operate every day under a combat mentality.* There are approximately 300 employees at Marion, making the staff/inmate ratio one of the highest in the Federal Prison System. During the past year the Bureau has addressed staffing needs at Marion; 35 new correctional officer positions, one attorney position and one personnel specialist position have been added to the roster. Since the deaths of Officers Clutts and Hoffman, 17 employees retired (12 were mandatory age retirements) and 32 employees resigned, three immediately after the killings. Most of the resignations were new probationary officers but Marion officials reported that in 8 cases the resignations were due to the pressure of the job. While some correctional officers were transferred from other prisons to fill vacancies at Marion the officers who have been employed since October, 1983, have never faced an inmate except under restraint or on the other side of the bars. To some of these officers the concept of "unlocking" the prison is frightening and they are strongly opposed to it. Other officers who have been employed for longer periods of time and who experienced the turmoil of events last Fall and thereafter are understandably concerned that many inmates are waiting for the lockdown to end so that they can retaliate. The staff are also aware that Officers Clutts and Hoffman were killed not in the open residential units but in the most tightly controlled unit in the federal prison system.

In our meetings with a cross section of staff including administrators, mid-level managers, union leaders, officers and line staff from the major job classifications we were impressed with a high level of morale among employees, and the genuine respect that appeared to exist between the union and management. The Marion staff understand that their fellow employees in the federal system appreciate the fact that by accepting the most serious management problems from other prisons at Marion life is made easier at those other prisons. The attitude of staff towards their jobs and the agency for which they work appeared to be excellent, a state of affairs we found to be at variance with the statements by national union leaders last Spring to a Judiciary subcommittee in which staff morale problems in the Bureau of Prisons were highlighted. The Marion employees felt that officials in their region and at the Bureau headquarters in Washington, D.C. were responsive to their needs and were providing a high level of support. Several employees did mention areas of concern such as the turnover among and caliber of new correctional officer recruits. (A number of probation-

ary officers have resigned after relatively short periods of employment at Marion, a situation which may reflect the stress and danger of the job in some cases but which also reflects the existence of alternative job opportunities in the southern Illinois area which offer higher wages than those permitted by the federal government.) As indicated earlier in this report several employees expressed the view that work at Marion might be easier if there were several Control Units in the federal system to allow for the periodic transfer of inmates and subsequent relief from each other to inmates and officers. Most employees, as would be expected, responded positively to the proposal that the staff at Marion receive extra or hazardous duty pay. The overriding concern of all however, was that the lockdown would be ended either by federal court order or as a result of pressure put on the Bureau of Prisons by congressional committees.

We have not recommended that the lockdown be ended but in addition to the recommendations listed above for changing the current living and working conditions at Marion, we urge the Bureau of Prisons to enhance the training of the Marion staff in crisis intervention. The training manuals or instructions developed for "normal" maximum security prisons will not suffice at Marion. Even the "A Team" techniques brought from Leavenworth Penitentiary need refinement for the circumstances at Marion. The Bureau should consider seeking information and assistance from other agencies such as law enforcement agencies that have developed techniques and special teams to deal with hostage situations, situations involving mentally ill and dangerous persons, and situations where an aggressive and hostile individual must be brought under control with minimal injury to himself and to others. Techniques employed by special military groups and by hospitals should also be examined. The challenge for the Bureau is to find methods and to train staff to act in ways that do not provoke violence and which can defuse potentially violent situations. Assaults arise out of interaction between the inmate's personal characteristics, the social setting in which he finds himself (that is, the culture and norms of the prison, and his relationship to his peers), and the inmate's perception of actions and cues from the staff. Assaultive inmates tend to interpret situations as threatening, goading, or even as challenging, thus turning normal encounter into struggles for survival, duels or as a test of a man's courage. The Bureau's training and research staff should examine the growing body of empirical research on rebellious prisoners which suggests that resistance (not necessarily violent resistance, however) in the oppressive setting of a maximum security penitentiary may not always constitute a negative sign in terms of post-release adjustment. Some "reactive" inmates, men who insist even in a disciplinary segregation unit in making some choices for themselves, may be better prepared to survive in the free world where staff will not supervise every aspect of their daily life, than will be some of the compliant "model prisoners". This area of research into which few psychologists and sociologists have ventured, is important because a better understanding of the dynamics of staff-inmate relations in Control Units, in disciplinary segregation units and in other maximum security settings may reduce violence and help to save lives.

Marion is a special prison. Its inmates and the character of life for inmates and work for employees within its fences and gun towers is very little understood, even by persons experienced in penology or knowledgeable about the major issues in penal policy. Most of what is publicly read and said about Marion comes either from the inmate's lawyers whose task is to depict the "new Alcatraz" in terms as emotionally laden and as negative as those used to describe the "old" Alcatraz or from statements issued by the Wardens of Marion or officials of the Bureau of Prisons intended to counter the claims made by inmates and their lawyers. Because Marion is the successor to Alcatraz, comparisons between the old and the new prisons are inevitable. But a comparison of 264 general population inmates in Alcatraz in the early 1960's to 264 Marion inmates in general population reveals important differences between the Federal government's two super-maximum security prisons. Alcatraz always maintained a work program, even when the inmates went on strike, but few of the Alcatraz inmates killed prison staff members (2 compared to 11 of the Marion inmates), far fewer Alcatraz inmates assaulted employees (16 compared to 101 of the Marion inmates), and while slightly more of the Alcatraz inmates were reported to have assaulted other prisoners (119 compared to 105 of the Marion inmates), far fewer Alcatraz inmates killed other inmates (3 compared to 56 of the Marion inmates).

The answer to the question of why the Marion prisoners are more assaultive toward staff than the Alcatraz inmates and why they are more likely to kill other inmates lies in a complex set of factors that relate to changes over the past two decades in the character of crime, the emergence of powerful white, black and hispanic gangs organized within prisons or in outside communities, the dramatic growth of the drug trade and other changes in American society that go beyond the scope of this report. But if Alcatraz is cited as the standard by which Marion is to be measured there is no doubt that life for both inmates and staff is much more dangerous at Marion than it was at Alcatraz in the 1960's. It should, however, be clearly understood by the readers of this report that the statement made about Alcatraz by one of its Associate Wardens, that "Alcatraz is not a penitentiary, Alcatraz is Alcatraz", also applies to Marion. Marion is unique in the federal prison system and special knowledge and understanding of its inmates, its staff complement, its operational problems and its "program" is required. The theme of this report, which is repeated in almost every recommendation, is that the Bureau of Prisons should not accept life in Marion as it is in the Fall, 1984, or as it has been during the past year but to try in as many areas as possible to find ways to improve the quality of life for inmates and working conditions for staff. In our view the Bureau of Prisons, as a standard bearer for the prison systems in this country, has a mandate to try to find, through careful experimentation, solutions to the most difficult problems in American penal history.

## APPENDIX A

FEDERAL PRISON SYSTEM,  
UNITED STATES PENITENTIARY,  
Marion, IL.

Number: MAR-5220.3

Date: 08-06-84, draft copy as proposed, 08-16-84.

Subject: Placement in B Unit.

1. *Purpose:* To establish operational guidelines for B Unit.

2. *Discussion:* The concept in the utilization of B Unit will be that it will function as the last step out of Marion. Inmates assigned to B Unit will function in a unit that is afforded more privileges than other general population units. Inmates assigned to B Unit will be closely monitored and screened prior to their placement within this unit.

3. *Commitment procedures:* As a general guideline for an inmate to be eligible for B Unit, he will need clear conduct for the past 1 and ½ years. We reserve the right to be flexible on both ends of the 1 and ½ year guideline depending on the individual case. Type offenses inmates have committed to get them to Marion, length of sentence, types of institutional violations, violence in record, predatory behavior and gang affiliation. Other items of consideration are: pattern of institutional misconduct, specific incident that resulted in their placement at USP—Marion (will be looked at individually and in total), lack of antagonism toward staff, willingness to accept B Unit program, not being confrontive and acting in an aggressive, antagonistic manner.

4. *Operational responsibility for B Unit:* Unit Manager, Team #2, United States Penitentiary, Marion, serves as the unit manager for B Unit and under supervision of the associate warden (programs), is responsible for the day-to-day operation of the unit.

5. *Maintenance of records:* Unit staff are responsible for the maintenance and upkeep of all inmate central files. The unit secretary is responsible for the checking in and out of files through a unit check out system. The secretary will account for all files at the end of each working day.

6. *Institution movement of B Unit inmates:* Inmates will not be required to wear restraint equipment while they are being escorted. Two officers will be required to escort a B Unit inmate outside of the unit. Riot batons will not be carried on the ranges of B Unit or while escorting B Unit inmates unless emergencies dictate the need.

7. *Unit operations:* B Unit will function as near normal to a regular open institutional setting as is physically possible.

a. *Admission and Orientation:* The unit manager shall develop, implement and maintain a current admission and orientation program for B Unit.

The purpose of the program will be to familiarize each inmate with unit staff, unit procedures, expected behavior and programs available. Staff shall place in the inmates central file, a checklist documenting the inmate's participation.

b. *Conduct in the Unit.* Inmates who pose disciplinary problems in the unit will be dealt with in accordance with Program Statement 5270.5, Inmate Discipline. Inmates receiving serious incident reports and found guilty will be removed from the unit and reassigned to another general population unit.

c. *Feeding.* B Unit inmates will eat all meals in the main dining room. Each floor will be fed separately and no more than 10 inmates are to be in the main corridor at one time. Shakedown of inmates coming out of both the unit and dining room are mandatory.

d. *Exercise (Recreation).* The same number of inmates in the corridor and shakedown requirements will be in effect for exercise movement as was previously stated for movement to the dining room.

e. *T.V. Viewing.* Inmates housed in B Unit currently receive T.V. viewing privileges. T.V. viewing is daily. Inmates are required to lock in their cells for all counts and remain there until the count clears. The T.V.'s are placed on the range at the start of the viewing and removed each evening.

f. *Work Assignments.* Work assignments that may be available to B Unit inmates must be approved by the unit manager after concurrence of the associate warden (programs) is obtained.

g. *Education.* The education specialist assigned to B Unit is responsible for planning and coordinating all unit education programs.

h. *Legal Library.* B Unit will maintain a basic law library on each floor. The education specialist will assist unit inmates in obtaining additional legal materials requested by "Cop-Out".

i. *Telephone Calls.* Inmates assigned to B Unit will be given the opportunity to make two 10 minute social calls per month. Ordinarily, these calls will be made between the hours of 7:30 A.M. through 9:45 P.M. Each call will be logged in the phone log book. Each entry into the log should immediately identify the inmate's name, number, party's name and phone number and the date the call is made.

The case manager assigned to B Unit is authorized to approve attorney calls and emergency calls.

Unit correctional officers are allowed to place inmate *social calls*, only if the officer is not taken away from any of his normal duties on the unit. The unit manager must audit the telephone log book to insure compliance.

8. *Program review procedures:* All B Unit inmates will participate in a formal program discussion with the unit team every 90 days to review program progress—or the lack of progress. The review is documented on the appropriate form and placed in the inmate's central file.

9. *Unit sanitation.* The unit manager is responsible for the sanitation of the unit. The unit manager and unit officer will make

daily sanitation inspection of the entire unit to include each cell and community use areas.

10. *Unit security*: Unit security is designed for the control, security, and safety of inmates and staff. Twenty-four hour coverage of the unit is provided by the custodial department. Security inspections will be conducted daily by the correctional officers. All security problems will be noted by the unit manager and be reported to the captain.

11. *Commissary*: Once per week. The schedule will be established by the commissary supervisor.

J.T. WILLIFORD, *Warden.*

## APPENDIX B

FEDERAL PRISON SYSTEM,  
UNITED STATES PENITENTIARY,  
*Marion, IL.*

Number: MAR-5220.3.

Date: 11-19-84 (final guidelines).

Subject: B Unit operations.

1. *Purpose*: To establish operational guidelines for B Unit.

2. *Discussion*: The concept in the utilization of B Unit will be that it will function as the last step out of Marion. Inmates assigned to B Unit will function in a unit that is afforded more privileges than other general population units. Inmates assigned to B Unit will be closely monitored and screened prior to their placement within this unit.

3. *Commitment procedures*: As a general rule, for an inmate to be eligible for B Unit, he will need eighteen months clear conduct at Marion. In addition, close scrutiny will be necessary to determine whether the management concerns and other behavior and case factors which previously made placement at Marion appropriate have been sufficiently mitigated to indicate the inmate can function successfully at a less secure facility without posing a significant threat to the security or orderly running of the institution. Length of sentence, disciplinary record, history of assault and disruption, escape potential, and willingness to participate in or cooperate with institutional programs and procedures are but some of the typical factors which must be weighed.

The unit team will evaluate and screen potential cases for B Unit. When they consider that an inmate may be appropriate for placement in B Unit and eventual transfer from Marion, the unit team will prepare a written memorandum of recommendation outlining their rationale while making reference to institutional conduct and the various other types of case factors outlined above.

A screening committee will be chaired by the Associate Warden (Programs) and ordinarily will include at least the CMC, B Unit Manager, and the Unit Manager of the team making the recommendation. This committee will have sole discretion to weigh the many case variables and to make a final determination based on their professional judgment of the inmate's appropriateness for placement in B Unit.

4. *Operational responsibility for B Unit:* Unit Manager, Team #2, United States Penitentiary, Marion, serves as the unit manager for B Unit and under supervision of the associate warden (programs), is responsible for the day-to-day operation of the unit.

5. *Maintenance of records:* Unit staff are responsible for the central files. The unit secretary is responsible for the checking in and out of files through a unit check out system. The secretary will account for all files at the end of each working day.

6. *Institution movement of B Unit inmates:* Inmates will not be required to wear restraint equipment while they are being escorted. Two officers will be required to escort a B Unit inmate outside of the unit. Riot batons will not be carried on the ranges of B Unit or while escorting B Unit inmates unless emergencies dictate the need.

7. *Unit operations:* B Unit will function as near normal to a regular open institutional setting as is physically possible.

a. *Admission and Orientation.* The unit manager shall develop, implement and maintain a current admission and orientation program for B Unit.

The purpose of the program will be to familiarize each inmate with unit staff, unit procedures, expected behavior and programs available. Staff shall place in the inmate's central file, a checklist documenting the inmate's participation.

b. *Conduct in the Unit.* Inmates who pose disciplinary problems in the unit will be dealt with in accordance with Program Statement 5270.5, Inmate Discipline. Inmates receiving serious incident reports and found guilty will be removed from the unit and reassigned to another general population unit.

c. *Feeding.* B Unit inmates will eat all meals in the main dining room. Each floor will be fed separately and no more than 10 inmates are to be in the main corridor at one time. Shakedown of inmates coming out of both the unit and dining room are mandatory.

d. *Exercise (Shakedown).* The same number of inmates in the corridor and shakedown requirements will be in effect for exercise movement as was previously stated for movement to the dining room.

e. *T.V. Viewing.* Inmates housed in B Unit currently receive T.V. viewing privileges. T.V. viewing is daily. Inmates are required to lock in their cells for all counts and remain there until the count clears. The T.V.'s are placed on the range at the start of the viewing and removed each evening.

f. *Work Assignments.* Work assignments that may be available to B Unit inmates must be approved by the unit manager after concurrence of the associate warden (programs) is obtained.

g. *Education.* The education specialist assigned to B Unit is responsible for planning and coordinating all unit education programs.

h. *Legal Library.* B Unit will maintain a basic law library on each floor. The education specialist will assist unit inmates in obtaining additional legal materials requested by "Cop-Out".

i. *Telephone Calls.* Inmates assigned to B Unit will be given the opportunity to make two 10 minute social calls per month.

Ordinarily, these calls will be made between the hours of 7:30 A.M. through 9:45 P.M. Each call will be logged in the phone log book. Each entry into the log should immediately identify the inmates's name, number, party's name and phone number and the date the call is made.

The case manager assigned to B Unit is authorized to approve attorney calls and emergency calls.

Unit correctional officers are allowed to place inmate *social calls*, only if the office is not taken away from any of his normal duties on the unit. The unit manager must audit the telephone log book to insure compliance.

8. *Program review procedures:* All B Unit inmates will participate in a formal program review with the unit team every 90 days to review program progress or the lack of progress. The review is documented on the appropriate form and placed in the inmate's central file.

Close scrutiny will be given to each case as to evaluating the inmate's readiness for transfer from Marion to another institution. In addition to the required clear conduct, unit staff will evaluate the inmate's willingness to participate in or cooperate with institutional programs and procedures. Close scrutiny will again be given to determine whether the management concerns and other behavior and case factors which previously made placement at Marion appropriate, have been sufficiently mitigated to indicate the inmate no longer requires the security controls in place at Marion and likely can function successfully at a less secure facility. Ordinarily, a period of placement of at least six months in B Unit will be required before the unit team will initiate a recommendation for transfer.

When the unit team makes the professional judgement that the inmate is appropriate for a transfer recommendation, they will prepare the usual redesignation memorandum outlining their rationale while making reference to institutional conduct and the various other types of case factors outlined in section 3 above and they will attach the usual classification material. This redesignation packet will be reviewed by the case management coordinator and the associate warden of programs prior to forwarding to the warden for his approval or disapproval. When the warden agrees with the recommendation, he will forward the redesignation recommendation to the regional director for final disposition.

9. *Unit sanitation:* The unit manager is responsible for the sanitation of the unit. The unit manager and unit officer will make daily sanitation inspection of the entire unit to include each cell and community use areas.

10. *Unit security:* Unit security is designed for the control security, and safety of inmates and staff. Twenty-four hour coverage of the unit is provided by the custodial department.

Security inspections will be conducted daily by the correctional officers. All security problems will be noted by the unit manager and be reported to the captain.

11. *Commissary:* Once per week. The schedule will be established by the commissary supervisor.

J.T. WILLIFORD, *Warden.*