

Marion Prisoners' Newsletter

The Marionette

April, 1988 Number 36

The Big Three

Move over GM, Ford and Chrysler! **The Marionette** has joined the ranks of things in threes. This month makes three years that **The Marionette** has managed to navigate its precarious course through the rocks and reefs of a hostile bureaucracy shrouded in the secretive mists of the American Gulag Archipelago. Ain't no cheap trick, that!

Throughout its existence, **The Marionette** has tried to make available to people beyond the walls and fences and razor wire and gun towers some real information on the actuality of dungeon Marion. It has striven to be a vehicle through which prisoners can contribute to the struggle some of the information to which they uniquely have access about a farce of the state few people get to see. It has endeavored to expose the counter-productive repression, hypocrisy and malfeasance inherent in the maximum restriction mania of Marion, the cauterizing light of public scrutiny being necessary to dry up this oozing postule on the body politic. And it has sought to empower prisoners by giving them some voice, however weak and small a whisper it might be.

But **The Marionette** has no Lee Iacocca of print to steer it to the effective fulfillment of its tasks (not that it would want such a bourgeois baron of capitalist exploitation, even if it could do with a few of his resources!) It has been battered by the storms of bureaucratic interference and the white waters of active and passive suppression of its mission by the administrative adversary of true "corrections." These have prevented it from becoming a secure forum of broad participation by prisoners that can do the needful in revealing the reality of the Marion situation in order to induce progressive change. **The Marionette's** companion publication, the **Prison News Service (PNS)**, one year old with this issue, has been even more circumscribed and restricted in its more general issue.

These circumstances under which **The Marionette/PNS** operate have prevented it from providing the intended service to the community. This is shown in the limited interest and impact it has been able to spark. Moreover, the dictates of physical reality have intruded into the process. Accordingly, change is in order, and the third anniversary of this small skirmish in the larger struggle is a fitting time to make it. Nothing stays forever the same. Henceforth, **The Marionette/PNS** will go from a monthly to a bimonthly publication schedule to allow its resources to be used more effectively. Suggestions are always welcome.∞



Repressive regime revisited by writer

On 7/Apr/88, Director of the University of Minnesota Dept. of Sociology David A. Ward accompanied the warden and his entourage during an inspection of the prison. Ward, along with Allen Breed, authored the 1985 report on Marion commissioned by the Congressional Subcommittee on the Courts, Civil Liberties and the Administration of Justice. That report was extremely one sided and even acknowledged its administrative bias. It justified it by saying the Subcommittee had only paid for ten days of investigation and the authors didn't have time to delve into prisoners information. Anyway, it was said, the prisoners' side was being aired in court, as if the government's vast resources did not give it a great advantage there, too.

Ward was very cordial to the prisoners to whom he talked on 7/Apr and gave at least one of them the impression that he was open to the reality of the situation and did not come forearmed with the bias evidenced in his earlier report. He said that he was here to do some follow-up observations on the earlier report. Questioned as to whether congress had instigated the

follow-up, Ward indicate that his new report would be for the *New York Times* but said that the congress could have access to it if interested. He said that he would be back for further investigation at a later date and did come back to talk to at least one prisoner the next day.

While the fact that none of Breed and Ward's original report's recommendations have been implemented despite their being derived solely from administrative sources may relieve Ward of some of his bias toward officialdom, considerable skepticism remains. Deeds like the report can only be overcome by practice. And the warden and henchpeople seemed very impressed and chummy with him during the tour. He has been accorded good and easy access. Coming so soon after the CBS Evening News and ABC 20/20 reports on Marion with which the administration was highly displeased, the appearance of Ward to write on Marion for the *Times* raises the suspicion that the BOP is plotting a media counterattack, its credibility gap notwithstanding.∞

Marion Notes

Sardine City: The usually least populated unit of Marion is fuller now than it has been in years with only two cells open on one side. This is an indication that the other units are chock full. It is a further illustration that administrative claims about Marion are lies. If violence is decreasing elsewhere as alleged, then rising population means that people other than the nasties the swine say are being sent here, are in ending up here. Otherwise it must mean that official statements that the lockdown has resulted in decreased violence in other prisons are false.

Harassment Helghtens: Recently, guards have undertaken a binge of enforcement of silly rules. In the last week three people from one side alone were taken to the hole for having a sock or towel, or something in the wrong place. This may be the result of population pressure requiring the administration to keep the hole full. The arbitrary use of infractions occurs disproportionately against people who have accumulated

"clean time" but who either the administration does not want to transfer out, or else they are litigious. Guards blame warden Henmann, who has said staff should not go out of its way to make Marion worse.

Canadian Connection: On 14/Apr/88, Associate warden Scott told one prisoner that Canadian prison officials had visited Marion about five weeks earlier. The group purportedly included a warden and a regional director from the Correctional Service of Canada (CSC). They were said to be contemplating building something similar. People familiar with the CSC will recognize this as an ominous development.

Deposition Day: Marion prisoner Ronald Del Raine continues to prosecute the lawsuit contesting the rejection of the first two *Marionettes* that he has been fighting for three years. On 15/Apr/88, I was taken to

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Argument and Harassment Around Bruscano Appeal

On 1/Apr/88, the appeal in the Bruscano class action lawsuit of the Southern Illinois District Court's denial of the motions for preliminary relief from the brutality and lockdown of USP Marion was argued before a panel of the Seventh Circuit Court of Appeals. Attorney Nancy Horgan argued the cruel and unusual punishment aspects for prisoners and Southern Illinois. Professor Howard Eisenberg argued the denial of due process issues. Asst. U.S. Attorney Ralph Freidman repeated the same old discredited propaganda for government and complained about technicalities.

The judges, two of whom were Ronbo appointees, appeared largely ignorant of the situation and demanded to know what authority says Marion conditions constitute cruel and unusual punishment. None does because Marion is a unique situation not previously addressed by the courts. They also nitpicked about whether it would be cruel and unusual without this or that element of brutality and needless restriction. That is irrelevant to a totality of the circumstances case in which no record has yet been made on such details. The government, of course, claims that none of the abuse is cruel and unusual and that all of it is necessary to security.

The due process issue is essentially that Marion constitutes a control unit no different than the one for which hearings are already required prior to consigning prisoners there. Conditions at Marion are so much worse than at any other prison that transfer raises a "certainty interest" that requires the protection of due process.

The government contends that Marion is the same as any other general population prison and thus no special due process is required prior to transfer. USP Marion warden Henmann insists that there is "plenty" of due process in decisions to transfer prisoners to Marion even though there is no hearing, no appeal, no reasons need be given. He also contends that Marion is a control unit because prisoners outside of H Block, the official control unit, get four more hours of recreation per week and can have recreation with a few other prisoners instead of just alone. Some difference, eh?

Immediately before the hearings, a large number of demonstrators with leaflets and placards gathered in front of the court building to demand an end to the lockdown and the brutality. At the time of the hearing, about a hundred of them crowded into the court room to hear the proceedings, support the lawyers and prisoners, and to let the judges know that the issue is not merely a dry technicality about which only lawyers and prisoners care. Community opposition flows from the knowledge that dirty deeds are being done in its name and that those deeds are counter-productive. The demonstration was organized by the Committee to End the Marion Lockdown (CEML).

No one is holding their breath awaiting any relief from this court. It was supposed to have ruled in three weeks but has not yet done so. The judges' unfamiliarity with the situation indicates that their decision had already been made before the information submitted to them had been generated. Indeed, sentiment among prisoners is that the Bureau of Prisons had obtained court support for its Marion plans as they were being made in the years before the lockdown was imposed in 1983. It is exceedingly unlikely that the court will rule that the swine had been lying all along about brutality and security needs and order any substantive "relaxation." It is also unlikely that it will order any due process protection of prisoners sent to Marion as that would occasion a lot of appeals that would eventually mean more work for the court. About all that seems certain is that it will be necessary to appeal to the Supreme Court where the Ronbo right is busily chiseling swastikas into the ossified body of bourgeois law.∞

Notes *continued*

give a deposition in furtherance of that suit. Apparently, Asst. U.S. Atty. Laura Jones realized that there is no information that can be elicited in support of her main contention that **The Marionette** could instigate violence or contain secret codes. Hence, she chose to focus her attention on trying to obtain information about outside participants in **The Marionette**. Jones' pursuit of such irrelevancies demonstrates govt. bad faith.∞

Court Considers Contamination

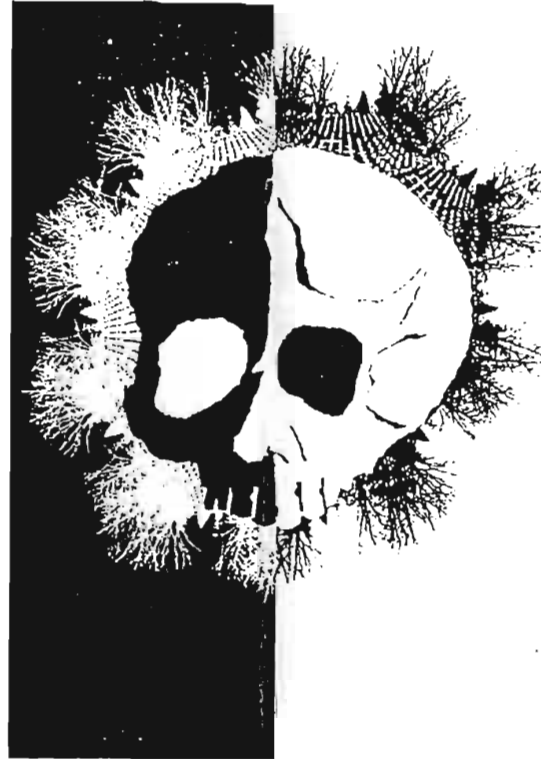
On 21/Apr/88, a hearing was held at USP Marion to determine whether the lawsuit against Marion prisoners being supplied contaminated water should be certified as a class action. Lawyers for the government and Sangamo-Weston, Inc., the company that left the hazardous waste site that caused the pollution, as well as one for the plaintiff prisoners were present. Michael D. Sizemore was the only prisoner plaintiff permitted to attend.

The suit was originally filed in 1984, some time after the toxic waste dump left by Sangamo Electric in the Crab Orchard National Wildlife Refuge was discovered to be leaking PCBs and other contaminants into Crab Orchard Lake, the source of the prison's water. The threat was serious enough to induce the town of Marion, also supplied by the lake, to change its water source. Former warden Williford even told prisoners of a gov't plan to drill a well for the prison, a plan that was later scrapped due to costs. The defendants' contention now is that the water contains only safe levels of pollutants and that that has always been the case.

The atmosphere at the hearing was kept deliberately tense. Mike was treated as the hazardous waste of which the suit complains. A federal marshal knocked his arm (which had been uncuffed for the hearing) away any time he extended it to shake hands with his lawyer, Steven Feinberg. Asst. U.S. Attorney Laura Jones and Sangamo Attorney Scott Smith talked callously — and ominously — about what the status of the suit would be if Mike should "die or disappear," talking as if he wasn't there. No courtesy was extended to either Mike or his attorney. The lawyers for the defendants kept "too busy" for even the usual informal conference toward resolving some of the issues.

The government and Sangamo attorneys objected to certification of the suit as a class action on the basis that it would complicate the issue and be a large undertaking. Certification would also insure that the suit would not die or disappear if the two remaining named prisoner plaintiffs did. The case would also be stronger as a class action suit by including all the ills suffered by other prisoners as a result of the water and it would also be more expensive by giving all those injured access to the settlement. The defendants also advanced the facts that the problem is being studied and that Crab Orchard has been placed on the Environmental Protection Agency's superfund list of places most needing cleanup as other reasons for non-certification and dismissal of the suit.

The defendants also advance these shabby arguments as a reason to continue the discovery ban, the denial of access to results of various water testing that they have done and refusal to allow outside testing of the prisoners. They still insist that the ban be maintained even though Mike, through his attorney, pointed out that if he could have the test results and



thus be convinced that there was no dangerous contamination or injury as has been the defendants' contention, there would be no more suit. The government and Sangamo did not explain why they still opposed the openness in that context even though presiding Magistrate Philip Fraser asked about it.

Prisoners still suffer the negative effects of continual exposure to contaminated water. The fact that this lawsuit has been slow-walked for almost four years indicates the amount of relief prisoners can expect from such illegitimate oppression (experimentation?) from the courts. They do not even recognize, let alone address, the gov't's bad faith. The Magistrate said that he would rule on the dismissal motions in about ten days and, if he does not dismiss, will allow the prisoners some discovery, though he didn't say exactly what. No decision was made on the class certification. The gov't attorney thinks that it will be a long time until any final decision is made.∞

Warden worries about wrongs

USP Marion warden Gary Henmann thinks that the ABC 20/20 report on Marion aired last month was very biased against the Bureau of Prisons (BOP) position. He contends that all the repression and restriction and harassment was and is justified. He objects to what he considers the portrayal of the goon squad as "space men from Mars." Nor was the supposed training that goes into preparing these riot equipped gangs to attack virtually defenseless prisoners already confined in single cells shown. He says that the media people were only interested in "blood and guts stuff" and didn't balance the essence of the Marion non-program with a lot of coverage of the few prisoners who are allowed to work and prisoners being allowed their meager recreation. He also claims that the report's information that only 70 of some 400 Marion prisoners fit the alleged criteria for placement at Marion. His claim is that 85% of the population are designated security level five or six.

It is not surprising that Henmann, as a good soldier of the BOP, would continue the claims that Marion abuse is justified. Could he suddenly admit that he has been lying? Nor has the power of the BOP declined to the point at which the ego defeat of admitting error can't be avoided. But the illegitimacy of the BOP position is illustrated by his objections. If the reality of Marion oppression, shown in action in the BOP's own films of the goon squad, looked like "space men from Mars" doing dirty deeds to the warden, how could they reasonably be seen as anything else by people without his bias, whatever the training? How can needless gooning be seen as promoting less violence and more safety? And why does Henmann think that allowing a few prisoners a little of what all prisoners should have available (work, recreation, education, etc.) in much greater measure justifies the unnecessary abuse of the large majority? Also, even assuming that his assertion that 85% of Marion prisoners are security level five or six is accurate, that alone does not justify their consignment to Marion; other prisons are full of such prisoners. And what about the other 15%?

In the light of the foregoing, it is obvious that the warden and, presumably, the BOP policy hierarchy are clinging unreasonably to a demonstratively failed policy out of some misguided notion that they are beset by and must defend against the enemy without. Either it is the product of deliberate malfeasance or they are the victims of their own propaganda.∞

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