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Time To Take Another Look

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24. SOME FINAL TIPS TO EASE YOUR TRIP

The IDEAL way is to fully and faithfully brief every case and comprehensively write your own outlines. You should master Hornbooks to catch the true flavor and deeper significance of the law. If you are like most law students, you will have to compromise along the way, for the breadth and depth of the law knows no limits.

One of the most important tips in exploring each subject is to stick close to the guide, your professor. Your teacher will lead you into the important areas as he or she sees it and will add to and enrich the written material. Class notes are a first-class investment for academic success.

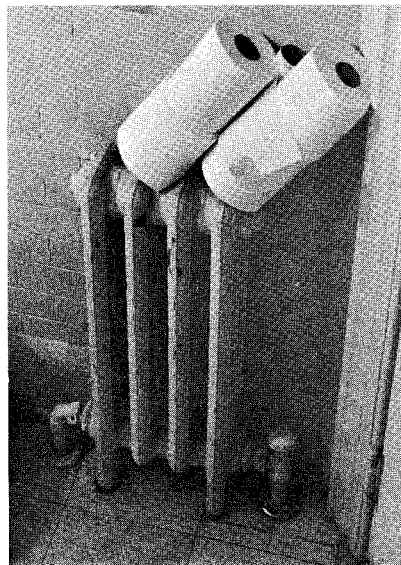
Canned outlines, like Gilbert's, can both help and hurt. If you have written your own, you can cross compare and use both for a two dimensional view. Again, you are encouraged to "do it yourself" — but if you haven't — Gilbert's (raised to Sainthood in California), or something of equal ilk, can save the day. Canned briefs are hazardous but still useful (otherwise why would they sell so many at so much??). In practice they are often misused. You can compare your brief with the canned one to see if you are "on course" and have hit all the issues. A disconcerting number of canned briefs have major and minor errors; they even mix up plaintiff and defendant. Canned briefs can't take the place of digging out the pearls yourself. But they are better than no briefs at

all, and are one way to get "in out of the cold." They can serve as an auxiliary, ersatz review of the cases, their issues and holdings.

Always study various sources of the same subject. By coming at it from different directions, you will learn it better and retain it longer.

In putting it all together, remember that by making yourself expect the best, you will tend to bring it about. Although there is an element of chance in all exams, you can still create your luck. "The harder you work - the luckier you get!". Finally, an incomplete, imperfect plan reasonably followed is far more effective than a disorganized, shot-gun approach. So..

"PLAN YOUR WORK AND WORK YOUR PLAN!!!"



Chris Michael

Time To Take Another Look

by Malcolm Christensen
(Inmate, #8478, Md. Correctional
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Penologists are aware that there is no panacea for rehabilitating social offenders, nor will there be until society becomes sensitive to the problem; but, until a Dr. Salk arrives with a one shot cure-all, we cannot allow stagnation. We must continue to challenge the problems of rehabilitation; our solutions will arrive through moderation and regulation of change, or by revolutionary concepts, and will depend upon society and the penologists they employ. With a recidivist rate of between sixty and seventy per cent, I believe our leaders better worry less about the world population explosion and more about our exploding prisons.

But because rampant change — unrestrained and unguided — more often becomes the enemy of solutions to prison problems instead of the savior, because problems — the same problems — seem to plague our penal system, and riots occur like locusts every few years, because I have experienced the frustration of prison and have witnessed my share of riots with their inhuman violence, I think it is *time to take another look* at community involvement as one solution to prisonization. (Prisonization: the process of making a person "con-wise" but unable to cope outside.)

Community involvement in prisons is not new; in fact, the first reform of prison conditions in this nation was started at Philadelphia in 1790 by religious volunteers from the Society of Friends (Quakers). But it has only been in the last decade that members of civic organizations and volunteers from the community have started working directly with inmates inside penal facilities on a wide scale. Some of the success stories and low recidivist statistics of offenders who have been involved in these programs have been notable. There have also been programs which have failed, and though these have been rare, they are the ones that have made the news. (Like the prevalent ex-con story...you never hear about the successful one, only about the con that failed). This fact has caused some penal administrators to become apprehensive concerning the merits of community involvement in their institutions.

This hesitancy on the part of penologists is understandable when you consider the number who have been forced to resign due to bad publicity. One might say that there is no such thing as "good" publicity for a prison administrator. If he does something beneficial for inmates, half the community will scream he runs a "country club" and if the public accuses him of coercion, the other half of the community will scream that he runs a "Dachau." So penologists must walk a tightrope between the "Bleeding Hearts" and the "Disciplinarians" of our society. Maybe this is why so many wardens make speeches about the need for new concepts, prison reform, and conjugal visits...only after they have retired.

One might think, "okay, if we can't rehabilitate offenders, then we will just lock them up and throw away the key." The only problem with this sentiment is that present penal institutions cannot support a major increase in population. Furthermore, with the state of our national economy there are no available funds to construct additional prisons — not in the number that would be needed — let alone maintain existing ones. There is also the fact that legislators are soon going to have to worry about appropriations to replace archaic jails and prisons that have been condemnable for years in lieu of building additional institutions.

Another factor that must be considered when contemplating longer punitive sentences is that our penal institutions are not inhabited chiefly by murderers, rapists, robbers and kidnappers. More than half of those incarcerated were convicted for such non-violent crimes as burglary, larceny and auto theft. Our penal systems have become dumping grounds by communities wishing to evade their responsibilities; therefore, the majority of our prisons are filled with the physically and mentally handicapped; social misfits; casualties of the dehumanizing aspects of ghettos, racism, poverty, and parental neglect, and those suffering from alcoholism and drug addiction.

The fundamental need of inmates, necessary before rehabilitation can take place, is to *repair their damaged egos.*

This doesn't sound so strange when you consider that the average offender has been a failure all his life: he failed in school; he failed at steady employment; if he was in the service, it is rare if he received an honorable discharge; he failed at marriage; and he came from a failed (broken) home, and last, but not least, additionally, incarceration makes him a failure as a criminal. This last failure is significant if judged in relation to the failures that precede, for this last failure was the product of all the accumulated failures that brought him to his present circumstance. Is it any wonder that inmates with egos damaged through a history of failures, disgrace and abuse are prone to act in ways which are self-defeating?

The above theory, that offenders believe themselves "victims of circumstances," is often revealed by offenders in their reply to the question of why they are in prison. They may answer: "The judge had it in for me," "Somebody set me up," or "My parole officer didn't like me." This seeing oneself as always the victim, as someone to whom incidents "just happen," allows the offender to divorce himself from responsibility for his own actions. He does not accept any blame for his failures nor does he believe in society's standard of morality in judging him. He does not see himself as initiating incidents, but rather perceives things as just happening to him. As a result, he reacts to situations, rather than making conscious and rational decisions on how to handle them.

The original "Self-Help" program within a prison was born of the brainstorming of a group of convicts who were fed up with the system and fed up with themselves for pursuing a life style that kept bringing them back to prison. They were aware that there were no programs with the walls that could motivate men with egos damaged through a history of failures and disgrace to seek improvement in their present circumstances. Therefore, to change their present circumstances they needed a program "inside the walls" but with an "outside atmosphere." They wanted a program that would not jeopardize the security of the institution but also would not come under the direct rule of either

the prison staff or the administration; program "run by inmates for inmates" with influence upon the environment of the group coming from "outside" volunteers. Inmates working with members of the community could complement each other, and could learn to relate in a positive manner to other members of society. Additionally, cross-cultural and interracial sympathies could be generated.

We know that the majority of offenders presently incarcerated are going to return to society. How are these men — and women — going to become members of society if not allowed an opportunity to meet people and to be socially accepted while still incarcerated? If the offender is not permitted this advantage to be rehabilitated while still in prison, he must, upon his or her release, start re-entry and acceptance into the community with fear and lies. As Gary Hill, internationally known in the field of crime and corrections, declared: "How can a person be a constructive citizen...while considered a social outcast?" (Gary Hill, is President of Contact, Inc., of Lincoln, Nebraska.) Community involvement can ease the stigma of exclusion while offering the offender an opportunity to meet respected members of the community.

An inmate deprived of an opportunity to seek self-esteem in a constructive manner will be forced to seek recognition and acceptance from his peer group within the prison world. He will be forced to submit to its standards and morality to seek status as a underworld person. This life style — with its variable forms of anti-social attitudes and behavior — is the avenue most convenient for men in prison to travel; once he takes the first step he has a return ticket back to prison. This is more readily comprehended if we understand that the majority of institutional programs condone surface adjustment and place emphasis on adjusting to the prison system rather than on rehabilitation. The system of institutionalized routine creates an environment which makes it impossible for inmates to function in the "normal" world upon their eventual release.

The sub-culture of the prison world (like any culture) has its own peer-group



June Chaplin

elite, prejudices and second class citizens; it has its own standard of moral conduct, for which it rewards those who conform with acceptance and companionship, and punishes those who deviate with ridicule, violence, or ostracism. In the world there are as many dissimilar cultures as there are nationalities or ethnic groups; but the penal culture is international: jail is jail and it matters not in what nation the prison is located, the inside culture will be the same. As there are Fourth Estate and Third World powers so is there also an Underworld. However, the philosophy of this "inside" culture could be said to have been formed from the circumstances of having to live in an unnatural environment, an environment that deprives the offender of his fundamental needs as a human being. Professor and author Alvin Toffler writes: "Take an individual out of his own culture and set him down suddenly in an environment sharply different from his own, with a different set of cues to react to — different conceptions of time, space, work, love, religion, sex and everything else — then cut him off from any hope of retreat to a more familiar social landscape, and the dislocation he suffers is doubly severe. Moreover, if this new culture is itself in constant turmoil, and if — worse yet — its values are incessantly changing, the sense of dis-

orientation will be still further intensified. Given few clues to what kind of behavior is rational under the radically new circumstances the victim may well become a hazard to himself and others." (The above excerpt is from Alvin Toffler's excellent book *FUTURE SHOCK* [copyright 1970] and published by Random House, Inc. I extend my appreciation to the author and publisher for permission to use the quotation here.) Professor Toffler could very well have been writing about going to prison, for that is what it's like!

Ask yourself what needs you have as a human being, then take yourself on a mental trip to a prison, any prison. How many of those needs can you still fulfill? What happens to you if deprived of those needs? You might answer, "Yes, you're right, it is hell" or "But you committed a crime and you have to pay." Of course you're correct: the criminal does have to pay, and I agree that offenders forfeit certain rights and privileges that would normally be theirs. But this doesn't give the right to society to make the offender less than human through deprivation, not to mention trying to stop "normal" human behavior such as the relief of normal sexual needs.

The raw frustration and abnormality of a prison culture are not apparent on the surface of the daily routine. One can

visit the prison and observe men involved in sports, going to school, watching television and other congenial activities. If you are with a group on a tour of the institution, the staff guide will show you the dining room, the auditorium, and tell you about the movies and the bands they obtain for the inmates. You will leave with the impression of how well the staff is running the prison; Then, when all hell breaks out a few days, weeks, months or a couple of years later, and if you happen to hear the news on the radio, you might think: "Why, those men in there had no reason to riot. They had it better than some people I know of — in fact, they were being treated too well!"

Yes, fake and false images of prison life — be they from an old James Cagney movie or from a guided tour — are playing hell on changing concepts within corrections institutions. For example: I recently listened to a talk show on a local radio station. The host was interviewing a member of a local organization of business and professional men. The guest was talking about one of the programs conducted this year to assist ex-prisoners in obtaining employment. Then he got to the part where he and some of the other local businessmen had just been on a visit to the local penal institution. He discussed what they saw: modern shops and class rooms, the pleasant atmosphere and excellent meal they were served in the staff dining room. Then he completely blew it with his closing remarks when he said; "...and there is no reason whatsoever for men coming out of that excellent program not to be able to make an honest living if we can furnish jobs." I wonder what he is going to think about ex-cons when the ones his group obtains employment for start coming back to prison? You better believe after that tour he or his group will never think that the institution staff or their training program could be at fault!

Those who are really concerned with finding solutions to recidivism should take a long look at what I call "collusion:" the mass sympathy for the theory that "teaching trades for gainful employment" is the cure-all for rehabilitation. Even Chief Justice Warren Burger got

into the act when he stated: "Rehabilitation should be of the first importance. The basic problem is in training the individuals with acceptable skills to make an honest living." I think we often forget that it is a very, very low percentage of people out of work who become criminals. Of course, there may possibly be collusion between politicians and lobbyists for steel companies, contractors and machine manufacturers whose answer to prison reform is building bigger and better prisons with expensive equipment for "teaching trades," for many of these big industries directly or indirectly elect our leaders. However, I will place most of the blame for this "trade and job" syndrome on convicts for using the "old standard" answer when asked why they came back to prison: "I couldn't get a job," "Who is going to hire an ex-con?" or "I don't

have a trade." This is an example of offenders believing themselves victims and refusing to accept any blame for their own actions.

I am not saying that job skills are not important to ex-offenders, because they are, just as they are to all people. What I'm saying is that prisons have to rebuild an offender's fundamental needs. They have to re-organize his principles towards life which will allow him to handle his responsibilities. We could then take on the problem of those that need a trade; many of those who change won't need trade training for they have skills which would allow them to earn a living if they could stay out of prison. In other words: why take a man who is a good salesman and teach him to be a bricklayer because he keeps coming back to prison for robbery? He is not going to work as a bricklayer anymore

than he did as a salesman!

In the early years of the sixties the Federation of Trade Unions received a large government grant to investigate job training in prisons. Because — at that time — the California Correctional System had the most modern prison facilities for vocational training, they selected that state in which to conduct their survey. The teaching of sheet-metal work was one of the programs selected for study. To determine the success of the program they conducted a follow-up survey on one hundred inmates who received training in this trade. It was found that out of the one hundred inmates who learned sheet-metal skills, only nine of them left prison to obtain employment in this trade; the other ninety-one obtained jobs in the work they were doing before they came to prison. A further study of the nine men who went to work in the

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sheet-metal trade showed that after a six-month period, six of the nine men had been returned to prison for violation of parole or for new crimes and that two of the three still on parole had left their sheetmetal jobs and no one knew where they were. At the end of a year, the last of the original nine men had quit his sheet-metal job to become a truck driver. This man's prison record showed that when he entered prison he had listed "truck driving" for previous work experience.

A prison "self-help" program could be said to be the counterpart of the free community's civic organization. Both should have the identical goals of wanting to improve their respective communities. Just as a person belonging to an organization outside can gain certain skills and needs, so can this principle help those on the inside. A self-help program will allow an inmate the means to mature to rehabilitation; it will allow him to cultivate his ideas into active projects within the group, and in presenting his ideas, learn to communicate and develop his power to reason. The inmate will learn to listen to the viewpoints of others, and realize that cooperation with others is necessary to accomplish anything. Working with a group he will come to understand the need for discipline and authority and thereby gain an insight into the meaning of responsibility to himself as well as to others. From his own efforts he will receive recognition for doing something useful; this might be the first time in his life that he did something constructive for others. Just as important is the direction from which he will receive this praise: it will be coming from outside volunteers, from the community he is learning he can become a part of upon his release. From this path on the back can come nourishment for rebuilding his self-image.

Of course, there are those who will say that this is all hypothetical and very doubtful where offenders are concerned. What they are really saying is that "convicts are animals, and you cannot change them." To this charge I remember what former Warden Clinton T. Duffy, of San Quentin Prison, said. Warden Duffy was giving a speech before a

group when someone in the audience asked him, "Warden, isn't it true that leopards never change their spots?" Warden Duffy, answered, "Yes, it's true that leopards never change, but then...I'm not working with animals, I'm working with human beings...and humans can and do change everyday."

I have seen former members of self-help programs return to prison; with human beings nothing is one hundred per cent. However, the percentage of these inmates returning is much lower than the national rate of recidivism. In addition, and I feel much more important, was the answer these men gave when I ask them why they couldn't make it. Not one of these men blamed others or felt himself a "victim" of society. They were all aware that they had brought themselves back to prison. I believe this answer, within itself, proves that the self-help programs were not a total loss, even for those who failed parole.

To survive within the penal institution society the offender has been forced to build for himself a lifestyle that meets with the standards and the approval of those he lives with and receives companionship from. It is not always that easy to change one's commitments by breaking away from one group and one style to join another group with another style. This is even harder in prisons, where there is a strong peer-group association within the sub-culture, and where the self-help groups that might furnish security while the inmate is in between styles are weak. When the self-help programs are not strong and active, many of the members' commitments to these programs will be shallow, and this type of self-help program can offer little assistance to those wishing to deviate from the pattern of the prison yard.

When a self-help program is lacking in directional operating procedures, the programming is weak and there will be a lack of motivation within the membership; it will have very little integrity. On the other hand, a "self-help" program that is well organized and where the goodwill of the administration allows for enough range in programming to benefit the participants would cause the inmates to sincerely work towards goals.

An administration ignorant of the latent principles in self-help programs can be the catalyst rendering the program ripe for negative action rather than for constructive activities. Too often, the interest displayed by the administration in self-help and community involvement programs is superficial. This insincerity is soon apparent to the membership by the lack of cooperation the program receives from the administration. The failure of the institution to recognize the efforts of the members soon tears down any individual incentive, as well as destroying the motivation factors of the program. In turn, the mainstream of the inmate population become cognizant that the programs within the institution are only pseudoself-help groups and not worth an "honest effort." they're only worth joining if you want to get out of the cell and "pass some time"...

Furthermore, this negative attitude of the penal institution staff towards self-help programs only widens the wall of the separation between "Them" the staff, and "Us" the inmates, for an inmate sincerely involved in a self-help program does not look upon that program as a "hobby," but feels that it is his "vocation" in trying to find a better way to live — a better way while incarcerated and a better way when he is released. There is a sense of belonging, of being part of a world larger than himself; and when the program is rewarding, he will feel deeply drawn to accept the values, attitudes and lifestyle of the group in organizing his own principles.

The attitude of penal institution officials towards groups within their domain is often a mystery to me. One would think that since their job is to rehabilitate offenders they would welcome any program, religion or concept, that would get the job done but this is not the case. They become quite disconcerted and rancorous towards the participants of any program that does not fall into their concepts of prison life.

The faith in the "status quo" is traditional in the correctional field. Therefore, the claim by some that community involvement programs are too disruptive to the routine of the institution is not surprising. Any time "new" elements are in-

troduced into a community — especially our inside community — which bring about “new” emphasis where personal prestige and feelings are involved, there is bound to be some resistance. This resistance against introduction of new elements, such as new programs, can come from a small element of the inmate population who are against anything and everything just because it’s there and it’s something to talk about; or from a segment of the prison employees who see new elements, programs or rules as a shift in present policies and, therefore, a threat to future promotions or authority. For example, the custodial guard with little education or who might not be qualified for advancement under new policies can become envenomed.

This problem of rigidity when trying to insert new concepts within a penal system is very real and not easily overcome. The majority of employees at any correctional institution are custodial in nature rather than treatment-orientated. Therefore, the power to change policies within an institution does not always belong to an enlightened commissioner, warden or superintendent but with the regnant force(s) within the custodial staff of the penal system or institution.

Just as an insincere administration can wreck self-help programs, so can a faction of antagonistic guards bring about the end of any program they do not want within the institution. This attitude is based on a fear that new programs will force liberalization and relaxation of rules and regulations upon which they have built their custodial philosophy and power. This philosophy is not concerned with rehabilitation or having the respect of inmates, but only with obtaining submissive obedience. They believe that strict discipline is the only way to run a correctional institution. Then, to compound this fallacy, they *do not always distinguish between discipline and punishment.*

There are many correctional institutions — especially the custodial forces — that are consumed with an antiquated attitude that to have intercourse between correctional officer and inmate will breed contempt. They cannot un-

derstand (or do not care) that there can never be rehabilitation of any human being when the guardian force must keep control by an attitude of superiority and fear. A philosophy that inmates are beneath socializing with breeds only contempt on both sides. Rehabilitation cannot be achieved by discipline without *understanding and human relations*, just as punishment will not correct a child if it is not dispensed with explanation and love. This attitude also fosters the belief that the penal institution is there for the benefit of the employees and not as a facility to correct offenders, so staff supervisors are more interested in employee relations and their comforts.

There is little one can do to break this chain of out-dated thinking, although many institutions have what some call “In Service Training” for new correctional officers. The classes are seldom adopted to treatment programs or rehabilitation concepts. If a new officer did happen to receive instruction in progressive penal philosophy or theory he soon learns upon reporting to work that the “old line” guards are not going to allow him to make waves. The new officer usually needs the work and wants to get along with his fellow officers, so he is forced to adopt the same attitude as the old-line-clan guards, and usually retains this attitude until his retirement.

There are many good and dedicated people in correctional work, both in the treatment aspect as well as the custodial. At the same time, the underlying factor of the low esteem and prejudices that the majority of correctional employees hold for their wards cannot be denied. This attitude and this attitude alone is the impediment to progressive and meaningful reform in the field of penology, and until an enlightened government places modern penologists in charge of our correctional services *with full power and complete backing* to “rock the boat” of our rigid fraternity of correctional employees, there will be no change in the prisoners’ world.

Now that Congress is investigating the activities of the CIA maybe the public will become aware of the clandestine cult of our national penal systems — which has an underlying odor just as bad as our na-

tional secret service — and request an investigation into why policies of public supported penal institutions are more concerned with keeping involvement of the community out of their institutions than they are with changing out-of-date methods which only perpetuate crime.

I have met several legislators who have spent their own time visiting prisons and talking with inmates, and who have a profound insight into the problems facing offenders and penologists. However, in seeking election to public office, a reputation for prison reform is not always an asset.

Changing penologists in some states resembles the Changing of the Guard in England: it takes place on a regular and frequent schedule. In twenty-two years of incarcerations I have witnessed many seesaw changes and political feuds take place inside correctional systems. The most tragic, however, was the decline of the Maryland Correctional System in the past five years. From 1967 to 1971 Maryland was progressive towards correctional concepts and some of the programs and changes were being noticed nationally. The Department of Corrections in Maryland, and especially the penitentiary, had several beneficial self-help programs and a very active community involvement. Then the hammer fell and with one blow the “old-line-power-structure” was able to start the decline of progress and the return of the “rigid-status-quo” of warehousing inmates by forcing the resignation of then commissioner Joseph G. Cannon.

One of the major mistakes the administration made was to discontinue a close supervision of the outside guest list and to drop the requirement that self-help groups had to submit a letter explaining who the people were that would be guests and giving a reason why they were attending a meeting. The second mistake was the approval — granted for the first time — allowing girlfriends, family and wives of the inmates to attend self-help meetings: business meetings soon turned into “social functions.” What human, let alone an inmate, is going to be interested in any business being discussed when they are

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sitting next to a loved-one they have been separated from? It is true that self-help programs should work on projects to better the visiting conditions of inmates, for all penal institutions need improvement in this area, but the purpose of self-help meetings is not that of a *social function* (the inmates already have the sympathy of their families); the programs are to meet members of the community and exchange new ideas that will effect their thinking and attitudes towards offenders as well as change offenders' outlook towards society.

When the self-help programs at the penitentiary turned into social clubs (with the assistance of the administration) and with no worthwhile or constructive business being conducted at meetings, many of the older members who were in the programs for self-benefit dropped out of the groups or became inactive. (Some were forced to quit by other inmates who wanted to use the programs for their own ends). Those inmates remaining were not the members who were versed in the concepts of self-help. Therefore, meetings soon became completely disorganized and open for abuse by a few members who were only in the programs for the visiting. Also, attendance and participation at meetings by community volunteers started dropping off, for the volunteers felt they were the "third party."

Because conditions at the meetings were deteriorating, certain members of the guard force saw their opportunity to put a stop to the programs once and for all. These programs between 1967 and 1971 had brought about a number of changes and a shift in priorities from custody to treatment; many of the higher positions within the department during that time were being filled from the ranks of treatment-orientated personnel and not from the ranks of the custodial force, therefore, power and prestige were involved. Although there were some guards who were all for the programs, and a few who even attended self-help meetings on their own time and helped the inmates immensely, these progressive individuals could not influence the majority of the "old line" guards and the senior staff officers who wished to regain

control of the power within the administration. So guards assigned to be present at self-help meetings started making derogatory remarks and being insolent to outside people attending programs. This further reduced the attendance of the community volunteers (not the inmate visitors) from coming into the programs because they didn't feel they had to put up with rudeness and insults to assist in a program they were volunteering their time for.

After the riots in the Maryland prison in 1972 the administration closed all of the self-help groups and claimed they were a contributing cause of the riots. It is true that a handful of inmates were abusing the self-help meetings, but in no way did it ever reach the proportions claimed by the custodial force. What is more of a question to me is why the administration permitted the programs to reach a point of degeneration? Furthermore, if guards did witness contraband being brought into the institution, why was there never an inmate (that I know of) charged with an infraction of institutional rules?

If you have read this far I hope that you will also wonder what is going on in our correctional system, and that you will take the time to take another look.

Warrantless Arrests

by Lindsay Schlottman

Henry Ogle Watson was arrested without a warrant on August 23, 1972 during a meeting in a public restaurant with Mr. Khoury (an informer of known reliability). Six days prior to this meeting Khoury had telephoned a postal inspector, informing the inspector that Watson possessed a stolen credit card and had approached Khoury about using the card to their mutual advantage. Learning that Watson was going to supply additional cards, the inspector asked Khoury to set up a meeting with Watson. Such a meeting, planned for August 22, was postponed by Watson to August 23, Khoury was instructed to light a cigarette at this meeting if he learned from Watson that Watson had additional credit cards. Khoury lit the cigarette, whereupon postal officers arrested Watson without a warrant and Watson was removed to the street and given his *Miranda* rights. Watson's person was searched and no credit cards were found. The postal inspector then asked Watson for permission to search his car which was in view. Watson said "Go ahead" and when the inspector said "If I find anything, it is going to

go against you," Watson again replied "Go ahead." *United States v. Henry Ogle Watson*, 44 L.W. 4112 (January 26, 1976). Two credit cards were found under a floor mat. Watson subsequently was charged with possessing stolen mail (in violation of 18 U.S.C. § 1708), a felony.

Prior to his trial, Watson moved to have the cards suppressed, claiming the arrest and the search were illegal (the arrest because there was no probable cause and no arrest warrant; the search because Watson had not been told he could withhold consent). The federal district court convicted Watson for illegally possessing the two cards.

The Court of Appeals for the Ninth Circuit reversed the district court's conviction, basing the reversal on the inadmissibility of the two cards. Specifically, the Court of Appeals held that Watson's arrest was illegal because the postal inspector failed to obtain an arrest warrant, although there was time to do so. Further, the Court of Appeals held that the consent to search by Watson was coerced and therefore an invalid ground for the warrantless search of the car. *United States v. Watson*, 504 F.2d 849 (1974).

The Supreme Court, in an opinion written by Justice White (Justice Stevens taking no part in the consideration or decision of the case), reversed the Court of Appeals' decision. The Supreme Court first decided the issue of the validity of the warrantless arrest.

The statutory basis of the authority of postal inspectors to make warrantless arrests is embodied in 18 U.S.C. § 3061 (a). The Board of Governors of the Postal Service is expressly empowered to authorize (which it does by regulation 39 CFR § 232.5 (a) (1975)) Postal Service officers and employees who perform inspection duties to

"(3) make arrests without warrant for felonies cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested had committed or is committing such a felony." *Watson*, 44 LW 4112, 4113, citing § 3061 (a) (1976).

The Court states that probable cause



June Chaplin