

Doing Time

A STUDY OF PRISON CONDITIONS AT
U.S. PENITENTIARY, LEWISBURG,
PENNSYLVANIA

FEBRUARY 1983

A report of the Pennsylvania Advisory Committee to the United States Commission on Civil Rights, prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the Pennsylvania Advisory Committee.

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Doing Time

A Study of Prison Conditions at U.S.
Penitentiary, Lewisburg, Pennsylvania

—A report of the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights.

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The findings and recommendations contained in this report are those of the Pennsylvania Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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LETTER OF TRANSMITTAL

Pennsylvania Advisory Committee
to the U.S. Commission on Civil Rights
February 1983

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Dear Commissioners:

The Chairperson and members of the Pennsylvania Advisory Committee are pleased to transmit for your approval and adoption *Doing Time: A Study of Conditions at U.S. Penitentiary, Lewisburg, Pennsylvania*. This report is an evaluation by the Advisory Committee of ten selected aspects of incarceration and the relative effectiveness of the Lewisburg Penitentiary in providing adequate service to inmates in each of these areas. Information presented in this report derives from extensive interviews with inmates, staff, and administrators of the Lewisburg Penitentiary, as well as research into Federal court decisions and U.S. Department of Justice and Bureau of Prisons policy.

The need for incarceration and its attendant conditions have long been the subject of debate in this country. Over the years, Federal courts have shown a willingness to recognize the injustices sometimes associated with incarceration and have fashioned appropriate remedies. However, this country has recently witnessed an outbreak of prison uprisings in our state and Federal prisons that have included takeovers and abduction of hostages. The nation's prison population is rising at an alarming rate as our Federal prisons are also used as administrative detention facilities. The result is that many of the safeguards provided inmates are being undermined or severely threatened. While the Advisory Committee recognizes the need for a secure environment for both inmates and guards at the prison, the Committee's chief finding was that the racial composition of Lewisburg's prison

staff is a continuing source of tension between inmates and staff and poses a constant threat to prison security. The Committee also found that racial tension permeates nearly all areas studied to varying degrees, with blacks and Hispanics registering the most serious complaints. Further, this report analyzes various aspects of prison life, including unit management, administrative and disciplinary segregation, grievance procedures, religious freedom, educational opportunity, and medical services.

It is the hope of this Advisory Committee that this report will aid prison officials in continuing to work toward eliminating problems at the Lewisburg Penitentiary. In view of the above, we urge your consideration of the facts, findings, and recommendations presented in this report.

Respectfully,

JOSEPH FISHER, *Chairperson*
Pennsylvania Advisory Committee

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The Pennsylvania Advisory Committee wishes to thank the staff of the Mid-Atlantic Regional Office of the U.S. Commission on Civil Rights for its help in preparing this report.

This project was begun under the direction of Yvonne Schumacher, equal opportunity specialist, who also performed and conducted an analysis of the preliminary field work with assistance from Donald Squires, legal intern. This report was the primary responsibility of Robert Owens, regional attorney, who, with the assistance of Suzanne Crowell, research writer, wrote the report. Substantive field work was done by Robert Owens, Suzanne Crowell, and Edward Darden, equal opportunity specialist, with assistance from the Lewisburg subcommittee of the Pennsylvania Advisory Committee. Legal research was done by Robert Owens and Robert Vance, legal intern; Suzanne Crowell provided editorial assistance; and Barbara Stafford and Christine Scarnecchia provided secretarial support services. All worked under the supervision of Edward Rutledge, regional director, and Everett Waldo, deputy director. In addition, Melvin Jenkins, Director, Central States Regional Office, was responsible for legal review.

The staff of the Publications Support Center, Office of Management, was responsible for final preparation of the report for publication.

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Introduction

Prison conditions and prisoners' rights have been the subject of controversy in the United States since colonial times. William Penn, founder of Pennsylvania in 1682, restricted the use of flogging as punishment and substituted fines, incarceration, and hard labor, but his reforms did not outlive him.¹ It was not until a century later that the Pennsylvania legislature passed a law permitting offenders to serve time rather than suffer corporal or capital punishment.² Sporadic progress was made thereafter until the first part of the 20th century. Probation and parole were introduced and prisoners were classified by offense and behavior. But during the early 1900s, the prison population grew rapidly, and overcrowding destroyed much of the progress that had been made.³ Despite the reversion to strict custody and hard labor, social scientists eventually persuaded authorities that rehabilitation should be the purpose of incarceration. The best prisons were organized along the "medical model,"⁴ and appropriate social science terminology entered the prison lexicon.

In recent years, however, many have come to doubt the efficacy of rehabilitation programs in an involuntary setting.⁵ Recidivism has not been ameliorated, critics charged.⁶ At the same time, another movement arose, based on the premise that prisoners were citizens whose rights should be restricted as little as possible during their confinement. Advocacy groups began to engage the courts

regarding the exercise of religious rights, access to the courts and to legal representation, resolution of grievances, correspondence and visitation, living conditions, health and safety, and the like. All these subjects and more are regulated in Federal prisons through the application of Bureau of Prisons Policy Statements, many of which have been developed or revised to take new court decisions into account. The application of Bureau policy at the U.S. Penitentiary at Lewisburg, Pennsylvania, is the focus of this report.

Beginning in the mid-1970s, inmates "behind the wall" at Lewisburg began complaining of prison conditions to the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights.⁷ These complaints revolved around racial and religious discrimination and staff brutality. In response to these complaints, members of the advisory committee visited the prison in March 1977 and July 1978 to interview inmates and prison officials. After reviewing its preliminary findings with the warden and Bureau of Prisons regional director, the committee agreed to augment its study with interviews conducted with prisoners selected at random. One hundred and seven inmates were interviewed over a two-week period in January 1981, followed by interviews with the staff later in the spring. A new report draft was shared with regional and Lewis-

¹ See Flynn, *Jails and Criminal Justice*, in *Prisoners in America*, 159 (L. Olhin, ed. 1973).

² H. Barnes, *The Repression of Crime*, Note 43, at 132 (1969).

³ L. Orland, *Prisons: Houses of Darkness*, 1-34 (1975).

⁴ *The American Criminal Law Review*, vol. 13:615, p. 627 (1976).

⁵ N. Morris, *The Future of Imprisonment*, Note 80 at 42 (1975).

⁶ Federal Bureau of Prisons, *Federal Bureau of Prisons Statistical Report*, FY 1973, 43 (1974).

⁷ Complaints on file in the Mid-Atlantic Regional Office, Washington, D.C.

burg officials in the summer, and pertinent observations made then were incorporated in the report.

Lewisburg is a maximum security facility housing approximately 1100 adult males of whom 62 percent are black, 28 percent white, 9 percent Hispanic, and 1 percent American Indian and Asian American. Most in the prison population are repeat offenders or have a history of violence or attempted escapes in less secure institutions. Most come from the northeast region of the U.S., although some have been transferred from more distant points.

The physical facilities at Lewisburg are not quite as old as they look. The main buildings are brick, with internal stone arches that recall another century, although the prison opened in 1932. A fortress-style wall encloses the prisoners' living quarters, administrative facilities, a prison industries program, and a playing field. The institution occupies 26 acres set in rolling farmland 150 miles from both Washington, D.C., and Philadelphia. It is not easily accessible by public transportation.

Inmates are housed in single cells, in larger rooms containing several persons, and in dorms divided into cubicles that are waist-high. The men eat in a common mess hall, and have access to a small gymnasium, outside recreation area, and legal library. Some interest-group activities are available in the evenings. When they are sick, inmates report to a prison hospital. Major illnesses or injuries are treated at the Bureau's hospital in Springfield, Missouri, or sometimes in community facilities.

Movement within the prison is strictly controlled by a pass system (a recent innovation), and the area occupied by prisoners is sealed off from the adminis-

tration offices by a double set of barred doors. Entrance to the prison itself is through a guard tower and another set of barred sliding doors. The atmosphere leaves no doubt that Lewisburg is a severely restricted environment.

The Lewisburg Farm Camp is located immediately outside the wall, adjacent to the prison. It houses up to 168 inmates considered in need of less supervision. Of this number approximately 65 percent are white, 25 percent black, and 10 percent Hispanic. The camp has no fence around it, although it is under surveillance from the prison tower to some extent. The camp is housed in modern facilities completed in 1976, when it opened.

The purpose of this report is not to examine the standards of the Bureau of Prisons per se, but to examine several aspects of the implementation of existing policy. Thus the recommendations made here will deal primarily with the prison's operation; however, changes in policy that appear necessary will be suggested.

The areas of prison life under examination include work, education, case management, administrative remedy procedure, discipline and detention, transfers and furloughs, health care, religion, and racial tension. Each chapter will consider a topic, beginning with an outline of Bureau policy, a summation of inmate and staff comments, and a response by the prison administration. Findings and recommendations will follow. All staff and inmate interviews are on file in the Commission's Mid-Atlantic Regional Office located at 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

Case Management and Inmate Classification System

Introduction

The Bureau of Prisons utilizes a designation and classification system designed to place inmates in proper security-level institutions and to ensure that only the amount of supervision necessary is rendered. Under this classification system, inmates at the Lewisburg Penitentiary are organized under the newly developed decentralized Unit Management approach. This new concept, born of the modern era of penal reform, is lauded by Lewisburg's administrators and often loathed by inmates. Administrators claim that unit management has made Lewisburg a more secure and safe facility while inmates contend that it has contributed to unrest between inmates and staff, is not responsive to inmate needs, and simply does not work. This chapter will examine these assertions.

Bureau of Prisons Policy

The unit management system is a relatively new approach to correctional management in the Federal prison system. It is a system of decentralized management currently being used in 31 of 38 Federal institutions. A unit is a small, self-contained area with inmate living quarters and staff offices. It operates semi-autonomously within the confines of a larger institution.¹

¹ BOP Program Statement 5321.2, March 3, 1980, Unit Management Manual, section 5006.

Definition

The unit management team consists of a unit manager, case manager, correctional officer, correctional counselor, psychologist, educational representative, and a clerk-typist whose offices are located within or adjacent to the inmate housing unit and are assigned to work with the inmates of that unit. The unit serves approximately 50–250 inmates who are assigned together permanently. The unit staff has responsibility for all aspects of inmate living and programming within the unit. Inmates are usually assigned to units based upon age, prior record, specific behavior typologies, length of sentence, the need for a particular type of program, or on a random basis.²

Goals

The unit management approach attempts to divide the larger institution population into smaller and more manageable groups in order to improve control and staff-inmate relationships. The unit management approach is also designed to improve the delivery of services. Its goals are (1) to establish a safe, humane environment that minimizes the detrimental effects of confinement, and (2) to provide a variety of counseling, social, educational, and vocational training programs to aid inmates in their successful return to the community.³

² Id.

³ Id., section 5007.

Advantages

The unit management approach has several advantages. It divides large numbers of inmates into small manageable groups whose members develop a common identity and close association with each other and their unit staff. It also increases the frequency of contacts and the intensity of the relationship between staff and inmates. The Bureau of Prisons believes that the increased contacts will result in:

- a) better communication and understanding between individuals;
- b) more individualized classification and program planning;
- c) more valuable program reviews and adjustments;
- d) better observation of inmates, enabling early detection of problems before they reach critical proportions;
- e) development of common goals which encourage positive unit cohesiveness;
- f) generally a more positive living and work atmosphere for staff and inmates and;
- g) provide more efficient accountability and control of inmates.⁴

The Bureau also believes that the various backgrounds of the unit team's multidisciplinary staff fosters better communication and cooperation with other departments within the institution. Because staff involvement in decisionmaking opportunities is increased, they have a chance to further develop their own management skills. Decisions are made by unit team members who are most closely associated with the inmate, thereby increasing the quality and swiftness of decisionmaking. Finally, program flexibility is increased, allowing for the development of programs for members of the unit without affecting the entire institution.⁵

Staff Roles in Unit Management

Unit management results in delegating to unit managers much of the decisionmaking authority previously centralized or the responsibility of other departments. However, the warden remains ultimately responsible for administering the facility. Unit managers serve as consultants to the administration on inmate management matters. The warden

retains final authority and responsibility for all matters occurring within the institution, although decisionmaking responsibility for most aspects of inmate services and program is delegated to the unit staff.⁶

A case management specialist serves as a resource person for the administration and staff. He provides technical assistance for the training of case managers and unit secretaries. He assures quality control in case management by review of study cases, transfer requests, and all official correspondence emanating from the units for the warden's signature. As a resource person, the case management specialist has no supervisory responsibility for unit staff.⁷

Under the unit management approach, the chief correctional supervisor, whose primary responsibility is the security of the institution, delegates some of this responsibility to unit staff. The chief correctional supervisor serves as a consultant to the unit team on matters pertaining to unit security. The correctional supervisor who works directly with the unit team serves as an advisor, consultant, and monitor for unit managers in matters pertaining to unit security, while the correctional officer who is assigned to the unit has responsibility for inmate accountability and security of the unit.⁸

The unit manager is the administrator and supervisor of the unit team. Unit managers have responsibility for all matters pertaining to their units including case management security, correctional programs, safety, sanitation, and financial management. They serve as ongoing advisors to the administration in matters pertaining to inmate management and programs, and are responsible for all activity of the unit.⁹

The case manager is directly responsible to the unit manager and has primary responsibility for case management matters within the unit. The correctional counselor's primary responsibility is the counseling of assigned inmates. This may include informal, unplanned counseling as well as formal group and/or individual counseling. It is expected that counseling and being directly available to unit managers will consume the majority of the counselor's time.¹⁰

The education advisor is the unit team's consultant in all education matters. He is responsible for

⁴ Id., section 5008.

⁵ Id., section 5008.

⁶ Id., section 5022.

⁷ Id., section 5025.

⁸ Id., section 5026.

⁹ Id., section 5028.

¹⁰ Id., section 5029.

seeing that all unit inmates are properly tested and informed of available educational opportunities. He may also be responsible for evaluating unit inmates in education programs and providing counseling in education matters as needed.¹¹

The unit psychologist, who is under the supervision of the unit manager, is generally responsible for the performance of diagnostic, therapeutic, research, education and evaluative functions relating to psychological services.¹²

Classification and Program Review

It is the policy of the Bureau of Prisons to classify each newly committed inmate within 4 weeks of the inmate's arrival at the institution designated for service of sentence. Subsequent program reviews for each inmate shall be conducted at regular intervals. The warden shall establish procedures to ensure that newly committed inmates are properly assigned to a classification team.¹³

The Bureau of Prisons mandates that each department within the institution shall have the opportunity to provide input into the classification process. It is the warden's responsibility to ensure that a system is established to assign each inmate to a classification team as soon as possible after commitment. The classification team, for institutions utilizing the unit management system, must be composed of at least four members: the unit manager, case manager, correctional counselor, and an education representative. Each member of the team holds a private interview with the inmate during the first week of his assignment. The interviews focus primarily upon problems identified in the intake screening process.¹⁴

Inmates transferred from another Federal institution must be classified within one week of arrival.¹⁵

A classification packet is compiled for each inmate. This packet is a composite of reports and forms submitted by various departments within the institution and represents their effort to identify the inmate's needs and to design a correctional program to meet those needs. It will contain reports on an inmate's sentencing, education, social background,

medical history, psychological reports, religious reports, and other reports as appropriate. The inmate is to be provided and sign for a copy of this report.¹⁶

Staff must conduct a program review for each inmate in security level 1, 2 and 3 institutions at least once every 90 days; and 4, 5, and 6, as well as administrative institutions (such as farm camps), at least once every 180 days. See attachment No. 4 in Appendix II. When an inmate in security level 4, 5, 6, or in an administrative institution is within 2 years of an anticipated release date, a program review shall be conducted at least once every 90 days. Program review is the purpose of monitoring and evaluating an inmate's progress in adhering to the correctional program designed to meet his specific needs. Inmates are to be given at least 48 hours notice prior to a review meeting. Inmates are required to attend the initial classification meeting and are afforded an opportunity to attend program review meetings.¹⁷

Field Observations

According to inmates, classification occurs within two weeks of their arrival at Lewisburg and is based upon their security level, although they do not know who actually makes the final decision. The classification team consists of a unit manager, case worker, counselor, education specialist, lieutenant or captain, and a psychologist. Inmates cited several factors which they believe are considered in determining their classification. They said that security level, violence in one's record, prior escape attempts, use of narcotics, length of sentence, adjustment to prison, gravity of offense, and race are considered in determining the inmate's classification.¹⁸

The majority of inmates interviewed stated that the unit management approach does not work.¹⁹ They maintained that the case managers were like "mini-wardens" in the authority they wield. One inmate even felt that "managers are like Nazis,"²⁰ while another felt that the unit management system was just "another part of the punishment."²¹

¹¹ Id., section 5033.

¹² Id., section 5034.

¹³ BOP Program Statement 5322.5, May 1, 1981, Classification and Program Review of Inmates, section 1.

¹⁴ Id., section 4.

¹⁵ Id., section 5.

¹⁶ Id.

¹⁷ Id., section 6.

¹⁸ Inmate Interview No. 34, Lewisburg Penitentiary, January 1981.

¹⁹ Inmate Interview No. 35, Lewisburg Penitentiary, January 1981.

²⁰ Inmate Interview No. 20, Lewisburg Penitentiary, January 1981.

²¹ Inmate Interview No. 22, Lewisburg Penitentiary, January 1981.

Inmates said that case managers do not try to help the inmate, and that "they are just doing their 8 hours."²² The animosity of inmates toward case managers was both consistent and extreme. One inmate stated "case managers ain't - - -"²³ while another said "the entire unit team is a bunch of obstinate - - -."²⁴ Several inmates made similar comments about the education specialists and claimed that they attempt to enroll inmates in school solely to obtain more money for the Education Department.²⁵ While some inmates expressed the view that counselors are helpful and will help an inmate "on the spot,"²⁶ a greater number felt that counselors do not work with the inmate.²⁷ Counselors, inmates claimed, are ex-guards who treat the inmate as if he could never change.²⁸

A significant number of inmates claimed that case managers did a poor job of preparing for parole board hearings.²⁹ Another inmate suggested that case workers have so much paperwork to do that they could not help the inmate even if they wanted to.³⁰ Several longterm inmates volunteered that the unit management system has caused a worsening of conditions from what they previously were.³¹ Others believed that the unit management approach was utilized in order to break up cliques.³² Many inmates felt that the entire unit management team worked against the inmate, and that team members did a great deal of buck-passing among themselves with regard to responsibility for various inmate requests.³³ The consensus among inmates was that case managers think the inmate is at Lewisburg to do

his time and therefore should not complain.³⁴ One inmate stated that the unit team member's attitude toward most inmates was "I'm not gonna help this son of a - - -."³⁵ Inmates contended that at Lewisburg, staff members follow the warden's policy and not necessarily the Bureau of Prison's policy.³⁶

Inmates voiced complaints concerning several other topics. Hispanics objected to being classified as white as opposed to Hispanic.³⁷ They also claimed that the majority of Hispanics were placed in the DAP (drug abuse program) unit to make the unit look good and to retain its funding. They stated that the DAP unit was really not effective, and that they participated only because they had been assigned to it.³⁸

Inmates complained that while their classification can be reviewed every 90 days, these reviews rarely resulted in a change of classification, regardless of the inmate's behavior while in the institution.³⁹ Hispanic inmates asserted that during classification review meetings, which last from 5-10 minutes, they often can not understand what is being said because of the language barrier.⁴⁰

Inmates also complained that assignment to housing units was based in large part upon one's classification and that the present system rewards those inmates classified as MAB because they exhibit more aggressive behavior. These inmates were said to have been rewarded by being housed in single cells, which offer a greater degree of privacy. Finally, inmates complained about the lack of

²² Inmate Interview No. 26, Lewisburg Penitentiary, January 1981.

²³ Kaufmann Interview.

²⁴ Inmate Interviews Nos. 10 and 27, Lewisburg Penitentiary, January 9 & 14, 1981.

²⁵ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

²⁶ Inmate Interviews Nos. 20 and 23, Lewisburg Penitentiary, January 1981.

²⁷ Inmate Interview No. 20, Lewisburg Penitentiary, January 1981.

²⁸ Inmate Interview No. 20, Lewisburg Penitentiary, January 1981.

²⁹ Inmate Interview on file, Lewisburg Penitentiary, January 1981.

³⁰ Inmate Interview No. 90 Lewisburg Penitentiary, January 1981.

³¹ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

³² Inmate Interview No. 82, Lewisburg Penitentiary, January 1981.

³³ Inmate Interview No. 26, Lewisburg Penitentiary, January 1981.

³⁴ Inmate Interview No. 26, Lewisburg Penitentiary, January 1981.

³⁵ Inmate Interviews Nos. 23, 24, and 25, Lewisburg Penitentiary, January 1981.

³⁶ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

³⁷ Inmate Interview No. 91, Lewisburg Penitentiary, January 1981. Some inmates felt that some members of the Lewisburg staff; i.e., correctional officers and unit team members, follow instructions set forth by the warden even though such instructions might be contrary to Bureau of Prisons' policy.

³⁸ Inmate Interview No. 12, Lewisburg Penitentiary, January 1981. Several Hispanic inmates alleged that Hispanic inmates at Lewisburg are counted as white for statistical purpose in order to present the image of a greater white inmate population thereby supporting the nearly all-white staff. Although one case manager admitted that Hispanics are classified as white, Lewisburg administrators deny that such a policy exists and produced statistics showing the relative numbers of black, white, Hispanic and other inmates in the prison population.

³⁹ Inmate Interviews Nos. 14 and 39, Lewisburg Penitentiary, January 1981.

⁴⁰ Inmate Interview No. 9, Lewisburg Penitentiary, January 1981.

confidentiality afforded when they are required to meet with their case worker on the "red top" (in the main hallway).⁴¹

Staff Comments

According to the Lewisburg staff the primary advantage to using the case management system is that in large institutions such as Lewisburg, it divides the population into more manageable groups. This allows for increased interaction between inmates and allows the staff a chance to know the inmates better. Inmates are divided into various groups such as MAB, FAL, SAN, etc., based in large part upon the inmate's motivation. The system was designed ostensibly to protect the inmate by keeping more aggressive inmates separated from those who are more passive. In addition to motivation, other factors considered in determining the inmate's classification include psychiatric profile, sexual proclivities, and the inmate's level of aggression.⁴²

Lewisburg staff indicated that although inmates with work assignments in UNICOR are housed together regardless of other factors, there is still little chance that a serious altercation might develop.⁴³ This is so because all inmates assigned to UNICOR are thought to be more motivated than most inmates in the general population and are less likely to engage in assaultive behavior. Additionally, UNICOR has a variety of housing, including cells and open dormitories, in which it maintains some separation based upon inmate needs. In fact, the staff indicated that in some instances, inmates who have shown little or no previous stability are assigned to UNICOR as a means of treatment, even though they were previously classified as FAL.⁴⁴

Inmate classifications do not often change, regardless of an inmate's adjustment or behavior in the institution, according to staff representatives.⁴⁵ They were not sure as to why this situation existed.⁴⁶ Housing assignments are not necessarily based on

the inmates classification. Assignment of housing is left to the discretion of the unit team, although a conscious effort is made to avoid mixing races in a cell.⁴⁷ With regard to members of the unit team passing the buck, staff indicated that this was not done. It may, at times, appear that way because unit managers delegate responsibility for some duties to different members of the team.

Preparation for parole board hearings can be a problem. The staff representative stated "there are occasions when your back is against the wall" due to time factors.⁴⁸ It was the staff's position that case managers viewed meetings with the parole board as paramount, but that they simply have no control and find it difficult to keep up with parole board hearings.⁴⁹ The role of case manager has changed somewhat in that they no longer represent the inmate at parole hearings; they merely state whether the inmate's presumptive release date should be honored.⁵⁰

Administrative Response

According to administrators, all inmates are informed of the basis for their classification. They are told that they will initially be assigned to a General Management Unit based upon their past and current behavior, as observed by the staff of the Admission and Orientation (A&O) Unit. With regard to inmate allegations criticizing the unit management approach, administrators felt that such allegations were frivolous and asserted that unit teams work with inmates to the extent possible.⁵¹ Administrators contended that unit teams are not and should not be the panacea to all inmate problems. Moreover, they assert that the unit management system does work and has made Lewisburg a significantly safer institution than any other in the Federal Prison System which houses comparable offenders.⁵²

It was the administration's view that inmate assignment to the DAP unit as well as the UNICOR units was done on a voluntary basis, and that a

accordance with program statement 5100.1, an inmate's security and custody classification is reviewed every six to nine months. He stated, however, that for the more serious, criminally-oriented, and sophisticated offenders, the security and custody classification will most likely not change.

⁴⁸ Kaufmann Interview.

⁴⁹ Kaufmann Interview.

⁵⁰ Kaufmann Interview.

⁵¹ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Case Management and Inmate Classification."

⁵² Ibid.

⁴¹ Inmate Interview No. 12, Lewisburg Penitentiary, January 1981.

⁴² Inmate Interview No. 93, Lewisburg Penitentiary, January 1981.

⁴³ Kenneth Kaufmann, Case Manager, Interview at Lewisburg, Pennsylvania, May 21, 1981 (hereafter cited as Kaufmann Interview).

⁴⁴ Kaufmann Interview.

⁴⁵ Kaufmann Interview.

⁴⁶ Kaufmann Interview.

⁴⁷ Agency review submitted by Norman A. Carlson, Director, Bureau of Prisons, April 12, 1982. Mr. Carlson stated that in

preponderance of any racial group in these units was the result of inmates having volunteered for such placement.⁵³ The administration maintained that racial or ethnic identity had absolutely no effect on

⁵³ Ibid.

⁵⁴ Ibid.

an inmate's program or treatment.⁵⁴ Administrators asserted that where language barriers between an inmate and his team occur, an interpreter is provided.⁵⁵

⁵⁵ Ibid.

Medical and Health Services

Introduction

There is little question as to the right of inmates to receive competent medical service. Nor is there serious question concerning the inmate's right to present himself to appropriate medical personnel in order to receive those services. The Bureau of Prisons agrees and has fashioned a policy to achieve this end. Inmates, however, raise doubt about their access to medical personnel as well as the quality of service which they receive. This chapter discusses inmate concerns regarding health care and staff and administrative response.

Bureau of Prisons Policy

The primary objective of health services personnel is the delivery of effective health care to offenders committed to the care and custody of the attorney general. In order to achieve this objective, the Bureau of Prisons has established policy guidelines to which each institution must adhere. It is required that newly committed inmates be given an initial overall examination by the medical staff to determine the need for any urgent medical care and to ascertain their freedom from contagious diseases.¹

Hospital Accreditation

The Bureau of Prisons recommends that all Bureau hospitals whose size and scope meet the basic requirements apply for and maintain accreditation with the Joint Commission on Accreditation of

Hospitals (JCAH). This commission is composed of four member organizations: The American College of Physicians, the American College of Surgeons, the American Hospital Association, and the American Medical Association. The JCAH is the only organization qualified to certify hospitals for accreditation, and its seal of approval can usually be equated with satisfactory operation and patient care.²

Physical Examinations

Within seven days of admission, all inmates are to be given a complete physical examination and, when necessary, a psychiatric evaluation as well. It is permissible for physical examinations to be performed by trained physician's assistants. Such examinations, when done by physician's assistants, should be countersigned by a physician. In order to assist in the rehabilitation of inmates, health services personnel are required to note with particularity all deformities or functional impairment revealed by the physical examination. Duty recommendations should describe what bodily motions are to be limited, the approximate weight of heavy objects to be avoided when lifting, environmental factors to be avoided, etc. Dental examinations may be waived except for those inmates complaining of dental pain or having dental problems.³

In connection with the physical examination administered upon admission, the Bureau further requires that each inmate who has attained the age

¹ BOP Program Statement 6000.2, May 18, 1981, Health Services, section 6408.

² Id., section 6002(3).

³ Id., section 6408.

of 50 be given an electrocardiogram and be offered an extensive eye examination. The latter, however, is to be done only upon consent of the inmate. In addition to these examinations, each inmate has the right to request a specific medical evaluation prior to his release date provided that his discharge date is not within one year of the previous physical examination. This examination should be conducted preferably within one month of release and should include the same procedures carried out during the admissions examination.⁴

Sick Call

The Bureau of Prisons requires each institution to hold sick call daily on the five regular workdays of each week. The Bureau recommends that an "open" method of scheduling be used and advises that at least 10 percent of the inmate population can be expected to utilize the outpatient department of the hospital daily. The outpatient department functions as the center of health and medical services; thus, emphasis should be placed upon quality care and maintenance of professional decorum. Bureau of Prisons policy requires that provisions be made for seeing patients at times other than the scheduled sick call for bona fide or even fancied emergencies. However, such visits, other than bona fide emergencies, should be discouraged as much as possible.⁵

Those inmates confined in the segregation unit are required to be seen by a medical practitioner at least once every 24 hours.⁶

The Bureau notes that the effectiveness of the medical care program is ultimately determined by the responsiveness of the medical staff to the complaint that the inmate presents when he visits the outpatient department.

The key post in the sick call is usually that of the physician's assistant, because he is the first person to whom the patient reports. He is responsible for all initial screenings and examinations. A physician is to be available to see referrals from sick call. Those inmates who specifically request to see a doctor should be allowed to do so when the physician is available, and the doctor must be informed of the

inmate's request.⁷ The Bureau requires that all inmates be afforded an opportunity to attend sick call if they desire. This is true also for inmates who might appear to be "goldbricking."⁸

Physician's Assistants

As the person playing the key role in the sick call process, the role of the physician's assistant merits closer attention. According to the Bureau:

The cornerstone of the physician's assistant concept is that the physician may better utilize his time by delegating to his physician's assistant(s) those medical duties for which he has determined that the assistant is sufficiently trained and has demonstrated competence to perform. The physician, of course, retains ultimate responsibility for services provided by his physician's assistant(s).⁹

In order to determine those areas in which a physician's assistant has demonstrated the skill and competence to perform, it is the policy of the Bureau to maintain qualification briefs on all physician's assistants. For a complete listing of functions which can be performed by the physician's assistant, see Attachment No. 1 in Appendix II. These qualification briefs are to be reviewed at least once a year and whenever supervising physicians change. With proper training and supervision, it is possible for the physician's assistant to perform multifaceted, highly complex, and extremely important duties. These duties include performing physical examinations, treatment of patients reporting to sick call, performing diagnostic impressions, conducting lab, EKG and X-ray procedures, prescribing and performing physical therapy, performing minor surgery, prescribing medication, etc.¹⁰

Consultants and Care in Other Facilities

The Bureau recognizes the value of consultants as being indispensable in the practice of modern effective medical care, especially when an inmate presents a medical problem that cannot be adequately handled by any member of the hospital staff. In addition to utilizing consultants, the Bureau suggests that where facilities for providing complete and comprehensive care to Federal prisoners do not exist

physician's assistants requires graduation from an American Medical Association accredited medical school. He stated that most schools have a four-year program though some offer two-year programs. Subsequent training is provided by the Medical and Services Division, Bureau of Prisons.

¹⁰ Id., section 6019.

⁴ Id.

⁵ Id., section 6412.

⁶ Id., section 6405.

⁷ Id.

⁸ Id., section 6003(6).

⁹ Id. According to Mr. Ronald Hillwig, Health Systems Administrator at the Lewisburg Penitentiary, in an interview with MARO staff on May 21, 1981, preliminary training for the

within the Bureau of Prisons, other hospitals should be used. Situations giving rise to this course include an emergency condition which does not permit transfer to a distant institution; where treatment locally will save money for the government; in cases of inmates under the age of 18; or where transfer to the Bureau's Medical Center in Springfield, Missouri, would create hardship for the inmate or for his family. Hospitals to be considered in the order of priority are:

1. Other Bureau hospitals.
2. Public Health Service, Army, Air Force, and V.A. hospitals.
3. Civilian hospitals.
4. National Institute of Health, Clinical Center.¹¹

It is the view of the Bureau of Prisons Medical and Services Division that anything less than strict compliance with the laws and rules of the medical profession and its related disciplines will inevitably compromise the quality of medical care.¹²

Field Observations

The results of field investigations show that inmates at Lewisburg experienced little or no problems with admissions examinations. There was, however, a great deal of uniformity with regard to other health-related problems.¹³

Sick Call

Inmates indicated that the sick call process, which is their primary means of obtaining medical care, requires them to be standing in line at the hospital by 7:00 a.m. when sick call begins.¹⁴ Some inmates asserted that if one is not actually in this line by 6:00 a.m., the line will be so long that the inmate will not be seen that day.¹⁵ The wait in line can be expected to last a minimum of one hour. Upon reaching the hospital, inmates are seen by an MTA (Physician's Assistant), who hears the inmate's complaint, rec-

ords symptoms, makes a diagnosis, dispenses medicine (including controlled substances), and determines whether an inmate will be permitted to see a physician.¹⁶ Inmates claim that these diagnoses and dispensations of medication occur without any consultation between the physician's assistant and the physician.¹⁷

According to inmates, when it is determined that an inmate is too ill to report to work, he is assigned to quarters for a period of time ranging from one to several days. Many inmates felt that they had to be near death in order to receive quarters.¹⁸ An inmate allowed to see the physician is given an appointment. In the meantime, the inmate must report to his work assignment. If an inmate becomes ill during mid-day while on the job, he must have the foreman call the hospital to arrange a visit. Inmates said that not all foremen were willing to call the hospital because they felt that the inmate was goldbricking.¹⁹ Some inmates said that the situation was so bad that the only way to obtain medical attention at night was to be found unconscious.²⁰

Standard of Treatment

Inmate opinion as to the quality of available health services varied from what some say is an attitude of "let's do as little as possible"²¹ to "every time I needed medical attention it was there."²² However, the majority of inmates questioned said they experienced problems getting treatment. They asserted that the prison hospital at Lewisburg does not perform any surgery, and that cases requiring surgery were sent to outside hospitals.²³ In emergency situations, Geisenger Medical Center or Evangelical Community Hospital in Lewisburg are utilized. In nonemergency situations, inmates in need of surgery are transported to the Federal Prison Hospital in Springfield, Missouri. While inmates recognize that treatment in outside facilities is in

¹¹ Id., section 6000.

¹² Inmate Interview No. 24, Lewisburg Penitentiary, January 1981.

¹³ Inmate Interview No. 23, Lewisburg Penitentiary, January 1981.

¹⁴ BOP Program Statement 6000.2, May 18, 1981, Health Services, section 6405.

¹⁵ Kaufmann Interview. According to this staff member, there were two physicians, two dentists, and nine physician assistants on staff in the Medical Services Division at Lewisburg in May 1981.

¹⁶ Inmate Interviews Nos. 4, 6, and 10, Lewisburg Penitentiary, January 1981.

¹⁷ Inmate Interviews No. 36 and 39, Lewisburg, Penitentiary, January 1981.

¹⁸ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

¹⁹ Inmate Interviews No. 22, 23, 24, and 26, Lewisburg Penitentiary, January 1981.

²⁰ Inmate Interviews Nos. 87 and 94, Lewisburg Penitentiary, January 1981.

²¹ Inmate Interview No. 21, Lewisburg Penitentiary January 1981.

²² Inmate Interview No. 34, Lewisburg Penitentiary January 1981.

²³ Inmate Interview No. 4, Lewisburg Penitentiary, January 1981.

their own best interest, they complained, nonetheless, of unnecessary delays in certifying their needs for surgery and in processing transfer papers. They also complained of the needless pain and discomfort that they had to endure while awaiting such a transfer.

Another problem, as seen by at least one inmate²⁴, was that of incompetence among some members of the staff. One inmate told of the problem he encountered in trying to obtain treatment for an abscessed tooth. The tooth was X-rayed by an inmate dental assistant who said there was no abscess. The following day the MTA X-rayed the tooth and told the inmate that he was suffering from a sinus problem. The inmate was then seen by a doctor who informed him that the tooth was infected and that he should put a hot compress on it. Two days later the inmate finally saw the dentist who, in turn, had another inmate dental assistant take the X-rays. This time the abscess was found. The inmate explained that this process took 5 days and that he suffered unnecessary pain as a result.²⁵

Inmates also contended that the prison medical unit fails to follow recommendations made by outside doctors. For example, one inmate said that he was advised by an outside doctor to have an othrosopic examination done on his knee more than 2 months prior to the staff interview. Yet, after his return to Lewisburg the medical unit failed to perform or arrange for the performance of such an examination. The inmate insisted that his injured knee continues to cause him extreme discomfort and that hospital staff refuse to treat him.²⁶

The inability to obtain medical treatment on the weekends was cited as another problem, as was the unsanitary condition of the medical lab.²⁷

Special Problems

A more pervasive and serious complaint was registered by Hispanic inmates. These inmates complained that because of their inability to communicate well in English, coupled with the lack of

bilingual medical staff, they were unable to explain the symptoms of their illness to the MTA at sick call and were reduced to pointing.²⁸ In addition, they do not understand what has been prescribed for them and therefore run an increased risk of suffering an allergic reaction to the prescribed medication.²⁹ They were generally unable to provide assistance to the doctor in diagnosing or treating their problem.

Inmates housed in segregation complained that no sick call procedure was available to them and that they see the MTA only every other day.³⁰

Staff Comments

Lewisburg staff maintained that while the hospital unit was not all that they would like it to be, it nevertheless provided adequate service to inmates through its outpatient facilities. The sick call process actually begins at 6:30 a.m. when the pill line opens. Inmates requiring medication for minor ailments such as headaches or colds may receive noncontrolled medication at this point. If the illness is more severe, the inmate uses the hospital's outpatient facility. Sick call, according to the staff representative, is primarily the responsibility of the physician's assistant.³¹

The physician's assistant (PA) screens all inmates on sick call. He takes the inmate's medical history, records his physical symptoms, orders any lab tests or X-rays that might be needed, and maps out a prescribed treatment methodology. The PA may also prescribe uncontrolled medication.³² The staff representative stated that if an inmate insists upon seeing the physician, he must be allowed to do so even if the PA feels it is unnecessary. According to the staff representative, screening and diagnosis of Hispanic inmates is facilitated through the use of an Hispanic inmate who works as a clerk in the hospital and serves as an interpreter. When this person is unavailable, the medical unit finds another interpreter.³³

The Lewisburg prison hospital is currently unaccredited. The administration disclosed that the hos-

²⁴ Inmate Interview No. 30, Lewisburg Penitentiary, January 1981.

²⁵ Inmate Interviews Nos. 1 and 6, Lewisburg Penitentiary, January 1981.

²⁶ Inmate Interview No. 24, Lewisburg Penitentiary, January 1981.

²⁷ Inmate Interview No. 23, Lewisburg Penitentiary, January 1981.

²⁸ Inmate Interview No. 12, Lewisburg Penitentiary, January 1981.

²⁹ Inmate Interviews Nos. 13 and 14, Lewisburg Penitentiary, January 1981.

³⁰ Inmate Interview No. 14, Lewisburg Penitentiary, January 1981.

³¹ Ronald Hillwig, Health Systems Administrator, Interview at Lewisburg, Pennsylvania, May 21, 1981, (hereafter cited as Hillwig Interview).

³² Hillwig Interview.

³³ Hillwig Interview.

pital lost its accreditation in 1978 and has remained unaccredited since that date.³⁴ Accreditation was lost for three reasons. The hospital had (1) no backup or emergency power; (2) no fire escape; and (3) no full-time pharmacist. The hospital has since remedied these deficiencies and is presently in the process of making extensive renovations. The renovations are expected to take approximately 2 years. The hospital does not currently perform in-house surgery because much of the equipment is antiquated, and the hospital lacks the personnel necessary to perform many operations. In addition the prison hospital does not have the nursing staff required for post-operative care. For these reasons, the Lewisburg administration does not plan to seek accreditation for at least 2 more years.³⁵

The prison hospital employs two physicians, two dentists, and nine physician's assistants. According to administration sources, another physician was expected to join the staff soon. The prison utilizes two local facilities, Geisenger Medical Center and Evangelical Community Hospital, to handle emergencies that cannot be treated at the prison.³⁶

Routine operations that are nonemergency in nature are scheduled for the prison hospital in Springfield, Missouri. For those illnesses that arise during the day, the inmate can receive medication until 1:30 p.m. from the pharmacy. Where the injury is serious, such as abdominal cramps, etc., the inmate will be seen by the physician immediately. Other cases must wait until morning sick call. During the evenings and on weekends, the prison's physicians are on call. Granting an inmate "quarters" is in the PA's discretion.³⁷

As to the hospital's lack of followup treatment, the staff representative explained that if an outside doctor suggests treatment that the Bureau of Prisons' doctors at Springfield, Missouri, did not believe necessary, there would be no followup.³⁸

Administrative Response

Administrators reiterated that the medication line is open from 6:30 to 7:00 a.m., when sick call begins. They stated that, contrary to inmate assertions, each inmate who has a need for medical attention is given

an appointment time to return to the hospital or the industry sick call room if they are not seen during sick call.³⁹ Administrators asserted that inmates suffering medical emergencies are seen any time day or night.⁴⁰ (See Appendix No. I.)

With regard to physician's assistants dispensing controlled medication without consulting the supervising physician, administrators contended that each physician's assistant has an individual privilege sheet that denotes, among other things, what each can prescribe in the way of medication. Administrators indicated that the number of inmates given quarters due to physical infirmity varies daily depending upon the severity of the illness. As to the accessibility of medical services for inmates after regular clinical hours, administrators stated, for example, that during the 3rd quarter (April 1981 through July 7, 1981), 427 inmates were seen after regular hours.⁴¹ Of this number, 2 were seen by a physician and 425 were seen by a physician's assistant.⁴²

In response to inmate complaints about unnecessary delays in processing transfer papers for referral to community hospitals and Bureau of Prisons facilities, administrators asserted that such requests are processed in a timely manner without unnecessary delays.⁴³

In addition to addressing specific complaints, Lewisburg administrators stated that inmates may be seen as needed by medical personnel 365 days a year. They indicated that a true medical emergency will be addressed immediately. Medical personnel (P.A.'s) are on duty 24 hours a day, 365 days a year. It is only necessary for a staff member to notify the P.A. on duty, and appropriate action will be initiated. This, they said, is true of all shifts on every day of the week.⁴⁴

Administrators also stated that an inmate may briefly contact a medical staff member to seek medical attention on any of the four "pill lines" run every day, 365 days a year. The purpose of these pill lines is to dispense controlled medication that is not permitted in the general population and also to monitor patient compliance with certain medication. The pill line times are 6:30a.m.-7:00 a.m.; 11:30 a.m.-noon; 5:30-6:00 p.m.; and 9:00 p.m.-9:30 p.m. Ad-

³⁴ Hillwig Interview.

³⁵ Hillwig Interview.

³⁶ Hillwig Interview.

³⁷ Hillwig Interview.

³⁸ Hillwig Interview.

³⁹ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Medical and Health Services."

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

ministrators claimed that during any one of these pill lines on any day, an inmate may seek medical attention and, if indicated, he would be seen by a P.A. as soon as possible. If immediate attention were not deemed necessary, the inmate would be advised of the proper channels to seek the attention he desires.⁴⁵

Administrators contended that on every working day every inmate has the option of seeking medical attention on routine sick call. They virtually guaranteed that every inmate who sought medical attention then would be given an appointment at a specified time to be evaluated by a P.A. without regard to the number of inmates who signed up. Further evaluation or treatment by a doctor would be then based on the P.A.'s evaluation.

It was explained that the 6:30-7:00 a.m. pill line was very important as the first pill line of the day, when insulin-dependent diabetics came to receive their insulin injections and report on their urine glucose test results.⁴⁶ In addition, administrators said that many inmates who receive controlled medication on a once-a-day basis come to this pill

line. Thus, it is very important to keep this pill line free of distractions in order to maintain correct medical records. This, administrators explained, is why no sick call appointments are made during this time.

At 7:00 a.m., the pill line is closed for medication and the process of signing up inmates for sick call is begun.⁴⁷ Administrators said they found this time slot and duration to be convenient and adequate for the vast majority of of inmates in the general population. They said it had been their experience that it was rare to have inmates still seeking appointments at the close of the line at 7:30 a.m.⁴⁸ They stated further that over 75 percent of sick call appointments are made within the first 15 minutes of the sick call line. Those inmates with a serious desire for medical attention routinely arrive about 10 minutes early (i.e., about 6:50 a.m.) and form a line, awaiting sick call line at 7:00 a.m. These inmates, therefore, receive the earliest appointments. The sick call line was said to be staffed by a P.A. who was assisted as needed by the medical records technician.⁴⁹

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

Work Assignment

Introduction

Chief Justice Warren Burger has stated:

We take on a burden when we put a man behind walls, and that burden is to give him a chance to change. If we deny him that, we deny his status as a human being, and to deny that is to diminish our own humanity and plant seeds of future anguish for ourselves.¹

Rehabilitation remains one of the principal objectives of incarceration. Within the Federal prison system, prison industries boasts more inmate hours than any other correctional program. This program provides an opportunity for offenders to exercise any skills they may possess upon entering prison and has the potential for teaching skills and work habits to assist inmates in securing and retaining employment upon release. In addition, Federal Prison Industries (UNICOR) provides the highest paying jobs available to inmates.

Inmates assert that the process of making job assignments and promotions is inequitable and that certain groups receive preferential treatment. This chapter examines job assignment and promotional opportunities. Particular emphasis is placed upon the UNICOR program.

Bureau of Prisons Policy

The Bureau of Prisons policy statement on admission and orientation provides that during the admission and orientation period, usually the first 2 weeks

after the inmate's arrival, he shall acquire knowledge of institution programs, regulations, and inmate rights and responsibilities. It is during this period that newly arrived inmates are given work assignments. The policy statement provides that a schedule of activities, including his assignment, is to be provided each inmate.²

In its program statement of optional programming, the Bureau states that "optional programming does not mean that inmates may remain idle for the length of their period of incarceration. All inmates will have a full program of either work or other structured activity." Institution staff, after a discussion with the inmate, place the inmate in appropriate educational, vocational training, or industrial (UNICOR) programs for a specified period not in excess of 90 days. At the end of this 90-day period the inmate again meets with staff and may "opt out" of the program without negative consequences. An inmate is not, however, free to opt out or otherwise fail to participate in any work assignment other than UNICOR.³

UNICOR

UNICOR is the trade name for Federal Prison Industries, Inc., which was created by Congress in 1934. It is a wholly-owned government corporation authorized and directed under Title 18, U.S. Code, sections 4121-4128. It adopted the trade name UNICOR in 1978. UNICOR's mission is to employ

¹ Address by Chief Justice Warren Burger, "No Man Is An Island," printed in 56 A.B.A.J. 325, 328 (1970).

² BOP Program Statement 52903, August 28, 1979, Admission and Orientation, section 1, 5(c).

³ BOP Program Statement 5350.9, July 16, 1979, Optional Programming, section 3.

and train Federal inmates through a diversified program that provides products and services to other Federal agencies. For a complete listing of prison industries and their locations, see attachment No. 5 in Appendix II. Inmate training is provided in entry level skills, and enhanced through factory on-the-job training and experience in skilled and semi-skilled occupations. UNICOR is an entirely self-sustaining operation. Inmates assigned to UNICOR begin work at entry level grade 4 and may progress through the 4-tier system to grade one.⁴ The current hourly compensation rates for industrial workers, effective October 1, 1980, are:

1st Grade.....	\$0.95
2nd Grade.....	\$0.76
3rd Grade.....	\$0.57
4th Grade.....	\$0.38

In addition to the basic hourly wage, inmates assigned to UNICOR may earn incentive pay that could boost their hourly pay rate to:

1st Grade.....	\$1.14
2nd Grade.....	\$0.91
3rd Grade.....	\$0.68
4th Grade.....	\$0.45 ⁵

Other Work Assignments

Inmates not assigned to UNICOR are given work assignments in more traditional areas such as the kitchen, barbershop, yard duty, etc. These inmates also receive compensation based upon a 4-tier system similar to that of UNICOR. The four basic pay grades reflect the level of responsibility of the work assignment and level of program achievement. Performance pay standards used to determine the amount of an inmate's monthly pay are intended to provide effective incentives and rewards for inmates who make outstanding contributions to the accomplishment of institutional goals. Exceptional work performance as well as productive participation in correctional programs may be recognized by performance pay.⁶

Bureau of Prisons policy holds that monetary rewards should be contingent upon actual behavior in a systematic manner. Each institution should establish standards for work and program participation and communicate them to inmates. The Bureau has established four pay classes, 4, 3, 2, and 1, with a

monthly payment of \$10, \$15, \$20, and \$25, reaching a maximum of \$30, \$45, \$60, and \$75 respectively. The Bureau recommends that 55 percent, 25 percent, 15 percent, and 5 percent of the inmates be assigned to these pay classes respectively. It is also suggested that local policy allow for 0 to 100 percent of an inmate's performance pay to be awarded in any month. Inmates employed fulltime by UNICOR are not eligible for performance pay.⁷

Monies allocated to the institution for performance pay may be given to unit teams for appropriate distribution. Each recommendation for award of performance pay must be in writing and state that a goal has been reached, that progress is being made toward a goal, or that an exceptional contribution has been made. Other factors to be considered include the exceptional quality and quantity of work, resourcefulness, trustworthiness, dependability, ability to work with minimum supervision, and unusual skill or knowledge required by the assignment.⁸

Special Awards

In addition to receiving either industries pay or performance pay, all inmates are eligible to receive additional compensation for performing exceptional services that are not a part of their regular assignment. Special monetary awards may be granted for:

- 1) Acts of outstanding heroism.
- 2) Voluntary acceptance and satisfactory performance of an unusually hazardous assignment.
- 3) Acts which protect the lives of employees or inmates or United States property (this does not apply to informants).
- 4) Suggestions which result in substantial improvement of institutional programs.
- 5) Other outstanding service.

This award, which may not exceed \$150, may be given in the form of a lump sum monetary payment, in addition to any other award given.⁹

Field Observation

Inmates reported that they are all required to work and that work assignments are usually made within 3 weeks of their arrival at Lewisburg. Most believed that the unit management team decided what type of work assignment would be given,

⁴ "UNICOR, Federal Prison Industries, Inc." June 1979, p. 4.

⁵ BOP Operations Memorandum 229-80 (8570), September 24, 1980, Revision of Industrial Payroll Regulation 5.

⁶ BOP Policy Statement 5251.1, June 8, 1976, Performance Pay, section 1.

⁷ Id., section 7.

⁸ Id., section 5.

⁹ Id., section 8.

although the inmates did not know the basis for the unit team's decision.¹⁰ One inmate believed that work assignments were based on the inmate's skill level, experience, and background.¹¹ While they are allowed to state a preference for a particular work assignment, most inmates did not feel that their preference was given much consideration.¹² They thought that the primary purpose for Lewisburg's existence was to run the factory.¹³ As one inmate stated, "industry is good business for the government; they make a lot of money."¹⁴

By far, inmates complained most about job promotions. Although no inmate knew exactly what standards were supposed to apply to promotions, several volunteered that promotions should be based upon merit and should consider the length of time on the job, quality of one's work, and the inmate's attitude toward staff and other inmates.¹⁵ Many inmates stated that in reality promotions were based upon (1) being an informant; (2) doing work in a good manner; (3) catering to the foreman; and (4) one's willingness to work. An additional factor which many inmates interjected was the consideration of the inmate's race.¹⁶ Most black and Hispanic inmates felt that race was a factor in promotions and that white inmates receive promotions much faster than blacks.¹⁷ Most white and some black inmates disagreed.¹⁸

Inmates said that morale was poor in the industry shops. They attributed this to several causes. Inmates complained about the total absence of minority foremen in the industry shops. They said that of the more than 20 foremen, all were white.¹⁹ This fact looms large in the eyes of inmates because it is the shop foreman who makes promotions and recommendations for special awards. Inmates cited

the variance in promotional standards between white and nonwhite inmates as another cause of poor morale.²⁰ They said that prison rules allow an inmate to be promoted from level 4 to level 3 after 30 days in the shop and to earn additional promotions every 30 days, provided one's work is satisfactory. However, other inmates claimed that this promotional scheme never works for minorities.²¹ They said that in order for a black to reach level 1, his promotion must be pushed by other blacks.²²

A third reason cited for industry's low morale was the lack of available positions. According to inmates, each department within industry is delegated a specified number of grades, depending upon the skill level required by the job.²³ This, say inmates, has the effect of locking one into a certain level with little or no chance for promotion unless a higher level becomes vacant. For example, an inmate might be a level 2-worker for 2 years, and although his work is good, he cannot become level 1 unless a level 1 position is vacated or a new one authorized. Inmates also complained about being required to perform level 1 work without compensation.²⁴ They said that if a level 1 worker became ill or was placed in detention, another inmate would have to fill in. However, this inmate is paid at a rate comparable to his own level in spite of doing level 1 work.²⁵ Inmates voiced several other complaints about their work assignments. Some complained that they were compelled to work in industry over their objections. One inmate disclosed that he was threatened with being placed in segregation for failure to accept his industry assignment.²⁶ Another inmate, after signing up for industry, learned that he would lose his

¹⁰ Inmate Interview No. 13, Lewisburg Penitentiary, January 1981.

¹¹ Inmate Interviews Nos. 5, 6, and 10, Lewisburg Penitentiary, January 1981.

¹² Inmate Interview No. 8, Lewisburg Penitentiary, January 1981.

¹³ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

¹⁴ Inmate Interviews Nos. 1, 13, and 42, Lewisburg Penitentiary, January 1981.

¹⁵ Inmate Interview No. 5, Lewisburg Penitentiary, January 1981.

¹⁶ Inmate Interviews Nos. 1, 3, 5 and 6, Lewisburg Penitentiary, January 1981.

¹⁷ Inmate Interviews Nos. 5 and 45, Lewisburg Penitentiary, January 1981.

¹⁸ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

¹⁹ Inmate Interview No. 12, Lewisburg Penitentiary, January 1981.

²⁰ Inmate Interviews Nos. 5, 42, and 45, Lewisburg Penitentiary, January 1981.

²¹ Inmate Interviews Nos. 42 and 45, Lewisburg Penitentiary, January 1981.

²² Inmate Interview No. 6, Lewisburg Penitentiary, January 1981.

²³ Inmate Interviews Nos. 22 and 37, Lewisburg Penitentiary, January 1981.

²⁴ Inmate Interviews Nos. 13 and 22, Lewisburg Penitentiary, January 1981.

²⁵ Inmate Interview No. 22, Lewisburg Penitentiary, January 1981.

²⁶ Inmate Interview No. 41, Lewisburg Penitentiary, January 1981.

housing in the honor unit and requested another work assignment in order to retain his housing.²⁷ He was told that he had to work in industry; otherwise he was "bucking the system."²⁸ Hispanic inmates asserted that few, if any of them, were performing level 1 work in industry.²⁹

Inmates complained that outside of industry, nonwhites are assigned demeaning, low-paying jobs in the kitchen, and that whites are never assigned kitchen work.³⁰ Some white inmates were assigned jobs in the officers mess, which is considered a privileged assignment, but inmates said that the only black assigned to the officers mess is the dishwasher.³¹

Inmates assigned to industry complained that the foremen are too impatient to provide the training necessary for an inmate to earn a promotion.³² Inmates also complained that if they change jobs, or if they are placed in segregation, they lose both their grade and job.³³ Inmates in nonindustry jobs complained that industry workers get paid holidays and up to 2 weeks paid vacation each year whereas nonindustry workers do not.³⁴

Inmates in industry complained that beyond receiving the GED, they were discouraged by their foremen from taking education courses because the hours spent in class would conflict with their work assignment.³⁵ Inmates assigned to vocational training, which includes small engine repair, automatic heating and installation, and the dental lab program, complained that there were no grades or levels for computing pay.³⁶ Rather, compensation is determined by the number of inmates in the class and whatever the instructor decides each should receive. Several inmates complained of being intimidated by the staff and of being coerced into accepting extra duty on their days off.³⁷ Finally, one inmate

complained of not being compensated during the first 2 months that he was assigned to the kitchen.³⁸

Staff Comments

Staff representatives explained that the UNICOR program is a self-supporting operation whose primary objective is to provide training for inmates.³⁹ Generally, the UNICOR program provides no funds for overall operation of the Lewisburg prison; rather, its revenues are returned to UNICOR headquarters in Washington, D.C., and used for UNICOR expansion.⁴⁰ Inmate work assignments are determined by the unit management team. However, assignments to UNICOR are based upon both the inmate's needs and the needs of the institution.⁴¹ The staff representative disclosed that when industry needs additional manpower to manage key positions, executive level discussions are held with the warden regarding assignment of inmates to industry.⁴² The staff member disclosed that a quota system does exist for certain areas within industry. (See Appendix I.)

Staff indicated that each job classification has a specified number of slots, and that there are no written guidelines concerning promotions. Promotions are made by the shop foreman, who considers such factors as the inmate's skill level, production level, attendance, willingness to work, and longevity in making promotions.⁴³ When an inmate feels that he has been unfairly denied a promotion, the industry supervisor will speak with the foreman concerning any possible problem and/or reassign the inmate to another shop.⁴⁴ If an inmate changes jobs he loses his grade and must begin anew as a level 4. Staff cited two reasons for this practice: (1) inmates already in the shop will not like a new man coming

²⁷ Inmate Interview No. 21, Lewisburg Penitentiary, January 1981.

²⁸ Inmate Interview No. 21, Lewisburg Penitentiary, January 1981.

²⁹ Inmate Interviews Nos. 12 and 14, Lewisburg Penitentiary, January 1981.

³⁰ Inmate Interview Nos. 17, and 14, Lewisburg Penitentiary, January 1981.

³¹ Inmate Interview No. 17, Lewisburg Penitentiary, January 1981.

³² Inmate Interview No. 21, Lewisburg Penitentiary, January 1981.

³³ Inmate Interviews Nos. 15 and 29, Lewisburg Penitentiary, January 1981.

³⁴ Inmate Interview No. 23, Lewisburg Penitentiary, January 1981.

³⁵ Inmate Interview No. 9, Lewisburg Penitentiary, January 1981.

³⁶ Inmate Interview No. 27, Lewisburg Penitentiary, January 1981.

³⁷ Inmate Interview No. 38, Lewisburg Penitentiary, January 1981.

³⁸ Inmate Interview No. 41, Lewisburg Penitentiary, January 1981.

³⁹ Leon Bickhart, Industrial Relations Specialist, Interview at Lewisburg, Pennsylvania, May 21, 1981 (hereafter cited as Bickhart Interview).

⁴⁰ Bickhart Interview.

⁴¹ Bickhart Interview.

⁴² Bickhart Interview.

⁴³ Bickhart Interview.

⁴⁴ Bickhart Interview.

in with a higher grade; (2) the shop foreman will feel that he has been forced to take a new man.⁴⁵ Both situations are bad for morale.

Promotions are made on the first day of each month and can occur every 30 days thereafter.⁴⁶ Thus, an inmate could conceivably reach level 1 within 3 months time. However, such a schedule is very unlikely due to the specified number of slots in each shop.⁴⁷ Staff reported that while race was not a factor in promotions, it was possible that on some rare occasion race might be considered.⁴⁸ Staff indicated that of the approximately 23 shop foremen in industry, none were minority.⁴⁹

Incentive Pay

The staff representative addressed several issues raised by the inmates. Only those inmates in the clothing factory are eligible for incentive pay.⁵⁰ The incentive pay is based upon piecework. The pool of inmates employed in clothing receives \$1.00 for each piece of clothing produced. According to the staff representative, incentive pay is used in clothing because it is the only place in industry where the individual's work can be measured. All other inmates employed in UNICOR are on a flat rate.⁵¹

Segregation

When an inmate is placed in segregation, he risks the loss of his job and his grade. Whether an inmate will lose his job and grade depends upon the length of time he is confined in segregation. It is sometimes necessary to have another inmate fill in and perform his job (as might be done when an inmate is ill). However, the inmate who fills in for another is compensated at his own rate of pay. Thus, if a level 2 inmate fills in for a level 1, the level 2 is still paid as such despite the fact that he is performing a job that requires a higher skill level. While an inmate who is placed in segregation risks loss of job and grade, in the absence of a written policy, the decision regard-

ing loss of job and/or grade is a subjective one made by the foreman. Generally, upon his return from segregation an inmate will be assigned whatever job and grade is available.⁵²

Vacation

Inmates assigned to industry do earn paid vacations. During their first year inmates earn a maximum of 6 days vacation at the rate of half a day per month. During the second year and thereafter inmates earn 12 days of vacation per year at the rate of one day per month. In addition, inmates are given paid holidays, provided they work both the day before and after the holiday.⁵³

Administrative Response

Administrators of Lewisburg's work assignment program disagreed with inmate perceptions that the institution existed for the purpose of promoting industries. They contended that the situation was quite the opposite, that Federal Prison Industries was established primarily to provide jobs for inmates while incarcerated.⁵⁴

They also maintained that the policy within FPI/UNICOR was to promote inmates based upon the following criteria:

- 1) Work performance;
- 2) Willingness to accept additional responsibility as would apply to achieving higher skills in preparation for advancement; and
- 3) Overall attitude toward other inmates and their foremen.⁵⁵

Administrators maintained that race, creed, and religion were not factors in determining promotions.⁵⁶

According to Lewisburg's administrators, one minority foreman is employed by UNICOR and efforts are presently being made to increase that number as positions become available. There are 35 shop foremen currently employed by UNICOR.⁵⁷

⁴⁵ Bickhart Interview.

⁴⁶ Bickhart Interview.

⁴⁷ Bickhart Interview.

⁴⁸ Bickhart Interview.

⁴⁹ Bickhart Interview.

⁵⁰ Bickhart Interview.

⁵¹ Bickhart Interview.

⁵² Bickhart Interview.

⁵³ Bickhart Interview.

⁵⁴ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Work Assignments."

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Agency review submitted by Norman A. Carlson, Director, Bureau of Prisons, April 12, 1982. In this response, G.C. Wilkinson, currently the Warden at Lewisburg, stated, "We are aware of the lack of minority staff among our UNICOR employees. This situation has been a continuous problem and we have made frequent efforts to make progress in this area. Prior to recent budget constraints, regular recruitment trips to various colleges, universities, job fairs and employment agencies in minority locations were made in an effort to recruit minority staff for UNICOR. In addition, through our EEO program, we have invited professionals from various agencies to attend meetings at the penitentiary to assist us in our recruiting efforts. Skilled

Inmate promotions were said to be based, in part, upon the optimum staffing level for each factory within the prison industries. Each grade, 1-4, within the various factories is said to have been assigned a specified number of men. The optimum staffing level breaks down as follows:

- 1st grade..... 15-20 percent
- 2nd grade..... 25-30 percent
- 3rd grade..... 25-30 percent
- 4th grade 10-20 percent

Administrators stated that factory grade quotas are determined by UNICOR's central office in Washington, D.C., and that compliance is required by each individual factory. When a locked-in-grade situation occurs, it can only be changed by the occurrence of a vacancy.⁵⁸

Administrators admitted that inmates were sometimes required to perform at a higher level than their grade status but such performance was regarded as training for job advancement. Administrators claimed the inmate should display his ability to perform higher grade work prior to advancement, and that it was not good management to promote in

craftmen, however, have not been receptive in accepting positions available in UNICOR nor have they found the rural setting of the Lewisburg Penitentiary to their liking."

⁵⁸ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Work Assignments."

hopes that the person could perform. Administrators conceded that under present circumstances the decline in inmate population at Lewisburg requires that inmates be assigned to industries involuntarily, with an opt-out provision in 90-days.⁵⁹

Institution policy provides that when an inmate assigned to UNICOR is placed in segregation, he will become unassigned and, depending on how long he is away from industries, he may or may not get his job and/or grade back. Administrators maintained that UNICOR encourages educational programs and was involved in various apprenticeship programs that required absence from the job.⁶⁰

Administrators also indicated that of the 402 inmates assigned as of July 31, 1981, 26 Hispanic inmates were assigned to the UNICOR operation at Lewisburg. Of these 26, four earn first grade pay (15 percent), nine were in second grade pay status (35 percent), six were in third grade pay status (23 percent), and seven were in fourth grade pay status (27 percent). Thus, 50 percent of Hispanic inmates in UNICOR were being paid at the top two pay grades. See Appendix I.⁶¹

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Agency review submitted by Norman A. Carlson, Director, Bureau of Prisons, April 12, 1982.

Education and Training

Introduction

As previously stated in Chapter 3, rehabilitation remains one of the primary objectives of incarceration. In addition to providing an opportunity to acquire and apply job skills, the process of rehabilitation often contemplates creating a situation in which the incarcerated offender can increase his knowledge. The Bureau of Prisons attempts to do this by mandating establishment of educational programs that have uniform standards and will enlarge the inmate's opportunities for education and training. Inmates assert that education and training programs available at Lewisburg lack substantive courses, are not available to all inmates, and serve to further the needs of the community rather than the inmates.

Bureau of Prisons Policy

According to Bureau of Prisons policy statements, the Bureau, in consideration of inmate educational, occupational, and leisure-time needs, affords inmates the opportunity to improve their knowledge and skills. Except for those camps, community treatment centers, detention centers, and metropolitan correctional centers where full educational programs are not feasible, the warden is required to operate an education department in each institution.¹

Program Goals

It is the responsibility of the warden to ensure that each inmate who, during the term of his confine-

ment, demonstrates the need, capacity, and desire is afforded the opportunity to complete several goals. Inmates must be allowed to complete an adult basic education (ABE) program. For purposes of the ABE program, need is defined as scoring below the 6.0 grade level on the Standard Achievement Test. Completion of the program requires achievement of a 6.0 median grade level score in the areas of reading, mathematics, and English. Inmates must also be allowed to complete a general educational development program (GED) leading to a high school equivalency certificate and/or high school diploma. Here, need is defined as not having achieved a verifiable high school diploma or equivalency certificate.²

Inmates must also be afforded an opportunity to improve their marketable skills through one or more programs of occupational education. Completion of the educational occupation program shall be shown by satisfactory completion of a course that meets the prescribed criteria in the areas of either: (a) exploratory training; (b) vocational training; (c) on-the-job-training; or (d) apprentice training. Need in this area is defined as not possessing a skill with which an inmate could attain employment upon his release.³

The warden is also required to offer inmates the opportunity to complete one or more post-secondary education activities. Completion of a post-secondary education program shall be evidenced by receipt of a passing grade in a course approved for

¹ 28 C.F.R. §544.80 (1980).

² *Id.* at §544.81.

³ BOP Program Statement 5300.9, July 24, 1980 Education, Training and Leisure Time Program Standards, Section 4.

post-secondary credit by an accredited post-secondary education institution. Inmates must be provided a chance to complete one or more organized social education activities, adult continuing education activities, or, finally, one or more prescribed leisure activities.⁴

The Bureau of Prisons provides that institutions, in carrying out these goals, shall emphasize inmate needs in the areas of (1) functional literacy, (2) high school equivalency, (3) marketable work skills, (4) continuing education, (5) personal experiences, and (6) positive use of leisure time.⁵

General Program Characteristics

The Bureau of Prisons provides that the warden, in collaboration with the supervisor of education, shall establish the conditions to be met before a program or an activity is ranked as an approved and bonafide education program. Each program must involve: (1) a written curriculum outlining objectives and procedures; (2) preassessment and post-assessment of student progress; (3) supervision by the education department or its designee; and (4) periodic external review of significance, timeliness, and effectiveness.⁶ The education program must operate on a 12-month basis with minimum break periods for holidays. Opportunities for inmates to participate in activities supervised by the education department must be available 7 days a week. Education, training, and leisure programs are to develop and establish maximum use of community resources.⁷

Each institution must provide for bilingual and bicultural inmates. To ensure achievement of this program characteristic, bilingual teaching materials and resources should be obtained and utilized. Moreover, the Bureau of Prisons mandates that supervision of education, through recruitment and staff practices, must give strong support to the Federal Prison system's general policy of encouraging the employment of bilingual/bicultural persons, minorities, and women to serve the needs of the inmate population most effectively.⁸

⁴ 28 C.F.R. §544.81 (1980).

⁵ Id. at §544.82.

⁶ BOP Program Statement 5300.9, July 24, 1980, Education Training and Leisure Time Program Standards, Section 7.

⁷ Inmate Interview No. 25, Lewisburg Penitentiary, January 1981.

⁸ BOP Program Statement 5300.9, July 24, 1980. Education, Training, and Leisure Time Program Standards, Section 4.

⁹ Ibid.

Field Observations

By far the biggest complaint by inmates with regard to Lewisburg's education program was its limited course offerings. For a complete listing of courses available in the Education Department, see attachment No. 2 in Appendix II. Inmates felt that the education program was deficient in the number of courses offered. They said that the program lacked comprehensiveness in even those areas which it covered.⁹ Moreover, inmates asserted that they, the intended beneficiaries, were not even queried as to their areas of interest. Some inmates said that the prison's only interest was in security, and that Lewisburg offers programs just to get a Federal grant. Others felt that school exists only to provide jobs (as instructors) for the community. Most inmates claimed to participate in the program only because they desired to earn good time toward their release.¹⁰

Hispanic inmates claimed to suffer the most severe hardships educationally. They asserted that because the institution has no bilingual instructors and because the overwhelming majority of Hispanics have such a limited command of the English language, they are effectively precluded from participating in the educational programs.¹¹ They contended that while many of them possessed the knowledge necessary to receive a GED certificate, they were unable to do so because of the language barrier. For these reasons they said they were unable to use the educational programs to earn extra good time.¹² Hispanic inmates claimed that Lewisburg has approximately 200 Hispanic inmates, of which only 6 are fluent in English. They claimed that Lewisburg's last bilingual instructor left nearly one year ago.¹³

Some inmates complained that they were pushed to go into education, while others, most notably those assigned to UNICOR, asserted that they were

¹⁰ Inmate Interviews Nos. 1, 5, and 6, Lewisburg Penitentiary, January 1981.

¹¹ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

¹² Inmate Interviews Nos. 7, 12, and 14, Lewisburg Penitentiary, January 1981.

¹³ Inmate Interviews Nos. 7 and 12, Lewisburg Penitentiary, January 1981.

discouraged from taking any classes except the GED.¹⁴ UNICOR inmates said that industry personnel wanted their workers on the job and not in the classroom. Inmates complained that eligibility for most programs require the inmate to be within 2 years of his release date, which poses a handicap for longtimers. Others complained that all college programs were limited to nights. While one inmate claimed to have taken every course offered, others said that they have dropped out of the academic program because teachers were not interested in providing a learning experience.¹⁵ However, inmates generally agreed that if an inmate refused educational programming, it is held against him and he will not be recommended for parole. This, according to one inmate, was in spite of the fact that "the programming is nothing, absolutely nothing, it's bull—."¹⁶ Other inmates felt that the educational program was beneficial.¹⁷

Staff Comments

Lewisburg staff indicated that educational and vocational programming is based, primarily, upon the inmate's needs. It is the inmate who decides what he wants by way of educational training. According to staff, inmates are queried (though not as much as they probably should be) about which courses they prefer to see offered.¹⁸ There are, however, some limitations on the circumstances under which courses may be offered. According to staff, the education and training budget for college courses at the Lewisburg penitentiary was cut 30 percent effective May 1, 1981.¹⁹ All of Region III, of which Lewisburg is a part, has been advised to pay for only occupationally-required vocational courses.

College courses are no longer available at Lewisburg, with two exceptions. Technical math and

technical English courses are offered in conjunction with Small Engine Repair and Heating and Air Conditioning, two vocational courses. College courses can be offered only where (1) 15 inmates are registered for a class and (2) these inmates pay for their own courses.²⁰ In addition to the limited number of courses offered, staff indicated that there are no courses for Hispanic inmates.²¹ This does not, they said, deprive Hispanics from the right to earn extra good time because there is no provision for awarding extra good time for participation in educational programs. (See Appendix I.) Staff also stated that educational instructors are not prejudiced, and that the institution is not permitted to receive Federal grants for educational purposes. The facility does employ some instructors on a contract basis.²²

Administrative Response

Administrators stated that inmate complaints about their lack of input regarding what classes were offered were unfounded. They indicated that the prison's Education Department constantly surveys the inmate population for various programs.²³ Administrators also pointed out that awarding "good time" based upon an inmate's participation in educational programs is precluded by Bureau policy. While the administration acknowledged the educational problems suffered by Hispanics, they indicated that the prison does administer the GED test in Spanish at various times. Lewisburg's administrators indicated that most college programs were limited to nights to accommodate UNICOR inmates who are not permitted to attend daytime classes. According to administrators, no classes are restricted due to the length of an inmate's sentence.²⁴

¹⁴ Inmate Interviews Nos. 12 and 14, Lewisburg Penitentiary, January 1981.

¹⁵ Inmate Interviews Nos. 8 and 45, Lewisburg Penitentiary, January 1981.

¹⁶ Inmate Interviews Nos. 5 and 29, Lewisburg Penitentiary, January 1981.

¹⁷ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

¹⁸ Harold Toevs, Assistant Supervisor for Education, Interview at Lewisburg, Pennsylvania, May 21, 1981 (hereinafter cited as Toevs Interview).

¹⁹ Toevs Interview.

²⁰ Toevs Interview.

²¹ Toevs Interview.

²² Toevs Interview.

²³ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Education/Training."

²⁴ Ibid.

Law Library

Introduction

For the past two decades the Federal courts have shown an increasing tendency to intervene in prison administration. One result of that intervention is the litany of cases establishing the right of incarcerated offenders to have access to the courts and to necessary legal materials. The Bureau of Prisons recognizes this right and has established inmate law libraries to achieve that end. Inmates at Lewisburg, however, maintain that required materials are not available and that the physical facility itself is inadequate. This chapter deals with those allegations and with the administrative response.

Bureau of Prisons Policy

Inmates incarcerated in State and Federal penal institutions won the right to access to a law library relatively recently in the case of *Younger vs. Gilmore*, 404 U.S. 15 (1972), aff'g 319 F.Supp. 105 (N.D. Cal. 1970). Here, the Supreme Court affirmed a prior decision by the U.S. District Court, N.D. California, which held:

Prison regulation limiting law books in prison libraries to Federal and State constitutions, State penal, welfare and institutions, health and safety, and vehicle codes, a law dictionary, a work on State and criminal procedure, a digest, and certain rules of court thereby excluding State and federal reports and annotated codes, was invalid as denying prisoners reasonable access to courts. . . .¹

¹ 28 C.F.R. §543.10 (1980).

² BOP Program Statement 1315.3, July 16, 1979, Inmate Legal Activities, Attachment No. 1.

Purpose

It is the policy of the Bureau of Prisons to afford inmates reasonable access to legal materials and reasonable opportunity to prepare legal documents. Toward this end, the Bureau requires that the warden establish an inmate law library as well as procedures for access to legal reference materials and for preparation of legal documents.²

Materials Required

Federal penitentiaries may have both a main and a basic law library. The basic library is intended for use by those inmates housed in special housing units such as segregation or those on farm camps. These libraries must include such materials as the *Supreme Court Reporter*, the *United States Code Annotated*, the *U.S. Constitution*, the *Federal Rules of Civil Procedure* and Title 28 of the Code of Federal Regulations. Other required materials include *Black's Law Dictionary*, *Criminal Law Reporter*, *Modern Criminal Procedure*, *Constitutional Rights of Prisoners*, etc.³ The main law library is intended for use by the general population and must contain all of the materials required for the basic law library plus others. For a complete listing of materials required for the law libraries, see attachment No. 2 in Appendix II.

Maintenance

The Bureau of Prisons' Central Office pays for and distributes periodic updates of law library

³ *Id.*, section 4.

materials. Maintenance of these materials is the responsibility of the institution. Inasmuch as the law library is expected to house an expanding collection of books, it is suggested that the library be housed in a room large enough to accommodate this expansion and also provide adequate room for tables so that inmates may work without the need for removing materials from the library. The Supervisor of Education is responsible for upkeep and operation of the law library. The Bureau suggests that he consider making copy equipment available to inmates and providing ample hours for library use as a means of mitigating against possible mutilation and theft of library materials.⁴

Legal Research and Preparation of Documents

Bureau of Prisons policy provides that the warden, whenever practical, shall make law library materials available to inmates, including evening and weekend hours. The inmate shall be allowed a reasonable amount of time to conduct research and prepare legal documents. The warden must periodically ensure that inmate law library materials in each library are kept intact. Inmates are to be advised by staff as to the rules and local procedures governing use of the inmate law library. Submission of legal documents to the court remains the responsibility of the inmate, although institution staff shall be available to serve as witnesses and administer oaths where appropriate.⁵

Inmates shall be allowed to receive assistance from other inmates in conducting research and in preparing legal documents; however, the warden may, in the interest of security, impose limitations on this assistance. Reproduction of legal documents shall, upon the inmate's request, be performed by institution staff, provided that more than one copy must be submitted to the court and that the duplication cannot be done by use of a carbon paper. Costs for reproduction shall be borne by the inmate unless he is indigent or the task is minimal, in which case the costs may be waived. In preparation of legal documents, the inmate shall be allowed use of a typewriter unless it is clearly impractical. Those

inmates who do not type may receive assistance from other inmates. Where an inmate demonstrates the need to meet an imminent court deadline, the warden shall give him a special time allowance for legal research and document preparation. Otherwise, inmates must continue to perform routine institutional activities.⁶

Those inmates confined in disciplinary segregation or administrative detention shall be provided a means of access to disciplinary materials and an opportunity to prepare legal documents. The warden shall allow such an inmate a reasonable amount of personal legal materials provided such amount does not constitute a fire, sanitation, security, or housekeeping hazard.⁷

Field Observations

The main law library of the Lewisburg Prison is located on the second floor in the education department in a former classroom. The law library and the general library are combined. Inmate reaction as to the condition of the main law library ranged from "it's one of the best in the system"⁸ to "on a scale of 1-10, I'd give it a 3."⁹ The most significant problem according to inmates has to do with its hours of operation. The operating hours were: Mon. thru Thurs., 8:00 a.m.-11:30 a.m., 12:30 p.m.-3:45 p.m., 5:30 p.m.-9:30 p.m., Friday, 8:00 a.m.-3:45 p.m., Saturday 8:00 a.m.-3:45 p.m., Sunday, 1:00 p.m.-3:45 p.m., 5:30 p.m.-8:30 p.m.¹⁰

Inmates contended that the library was closed during the hours when they have the most free time, such as Friday and Saturday evenings. They also said that while the library was open immediately after work, many inmates are too tired to use it then. Moreover, even if an inmate reports to the library immediately after work, it would be too crowded to accomplish much.¹¹

Closely paralleling the claim that at certain times one cannot accomplish much is the assertion that the library is too small and that it needs more typewriters,¹² more up-to-date materials,¹³ and a wider

⁴ 28 C.F.R. §543.11 (1980).

⁵ Id.

⁶ Id.

⁷ 404 U.S. 15(1972), aff'g. 319 F.Supp 105 (N.D. Cal. 1970).

⁸ Inmate Interview No. 17, Lewisburg Penitentiary, January 1981.

⁹ Inmate Interview No. 4, Lewisburg Penitentiary, January 1981.

¹⁰ Inmate Interview No. 1, Lewisburg Penitentiary, January 1981.

¹¹ Inmate Interviews Nos. 4, 8, 27, and 23, Lewisburg Penitentiary, January 1981.

¹² Inmate Interviews Nos. 4 and 20, Lewisburg Penitentiary, January 1981.

¹³ Inmate Interviews Nos. 6 and 25, Lewisburg Penitentiary, January 1981.

selection of books.¹⁴ Inmates claimed that the library was so small that during peak hours one might have to wait more than an hour to get inside.¹⁵

Once inside, inmates say that the room is too noisy to concentrate, and that access to a typewriter might require another 2-hour wait.¹⁶

Although law books cannot be removed from the library, inmates do have access to photocopying machines. They complained that while the copy cost of 10 cents per page was fair, the requirement that an inmate have a minimum of \$1.00 worth of copying before he is allowed access is too costly.¹⁷ This is particularly true for inmates who have only 2 or 3 pages to be copied. Inmates said that the canteen, which must process the copying requests, refuses even to do the paperwork if the request is for less than \$1.00. Inmates also said that they were not permitted to aggregate reproduction costs by copying materials for other inmates.¹⁸ In addition, inmates claimed that the photocopying service was only available between 11:30 a.m. and 12:05 p.m. and that the library is closed during these hours.¹⁹

Inmates also bemoaned the absence of State statutes from the law library. Many of the inmates at Lewisburg have been transferred from State institutions for various reasons.²⁰ They have not committed Federal offenses and require access to State statutes in order to conduct meaningful research on their own behalf.²¹ Yet, because Lewisburg is a Federal institution, there is no requirement that the library have State statutes, and it does not. Even those inmates convicted of violating the District of Columbia Code (a set of which is required) complained about the condition of the D.C. Code. They claimed that it was in bad condition with pages missing (torn out). Inmates also stated that the library lacked Bureau of Prisons policy statements.²²

¹⁴ Inmate Interviews Nos. 6 and 22, Lewisburg Penitentiary, January 1981.

¹⁵ Inmate Interview No. 39, Lewisburg Penitentiary, January 1981.

¹⁶ Inmate Interview No. 39, Lewisburg Penitentiary, January 1981.

¹⁷ Inmate Interviews Nos. 25, 26, and 27, Lewisburg Penitentiary, January 1981.

¹⁸ Inmate Interview No. 1, Lewisburg Penitentiary, January 1981.

¹⁹ Inmate Interview No. 37, Lewisburg Penitentiary, January 1981.

²⁰ Inmate Interviews Nos. 43 and 47, Lewisburg Penitentiary, January 1981.

Special Problems

Hispanic inmates who are not bilingual contended that they were unable to use the law library because there were no law books written in Spanish. They must rely upon assistance by the prison's relatively few bilingual inmates, who must give up their own leisure time to render assistance.²³ They claimed to have filed a petition requesting Hispanic literature and one Hispanic movie per month and that neither request was acted upon.

Inmates in disciplinary segregation and administrative detention declined use of that unit's law library because they claimed the library's one typewriter needed cleaning, the single cell that houses the library was too small, their time for use was limited to only one hour which was woefully inadequate, and because all copying requests must be done by the caseworker who was not helpful. Moreover, pages were missing from many books in the law library.²⁴

Other inmates claimed to have never used the library because they did not know how and were never told that help was available. Inmates who are unable, for medical reasons, to climb the steps to the main library on the second floor have no other means of access except through reliance upon another inmate.²⁵

Staff Comments

According to the staff representative, the law library at Lewisburg is a disaster, due not so much to its contents as to the physical facility itself.²⁶ The law library is combined with the general library. However, in essence the library is only a legal library. Even as a law library, it is too small to accommodate the needs of Lewisburg's 1100 inmates and has very poor acoustics. The staff repre-

²¹ Inmate Interview No. 43, Lewisburg Penitentiary, January 1981.

²² Inmate Interview No. 14, Lewisburg Penitentiary, January 1981.

²³ Inmate Interviews Nos. 7, 12, and 40, Lewisburg Penitentiary, January 1981.

²⁴ Inmate Interviews Nos. 42 and 45, Lewisburg Penitentiary, January 1981.

²⁵ Inmate Interview No. 55, Lewisburg Penitentiary, January 1981.

²⁶ Toevs Interview.

sentative believed that the library needed to be two or three times its present size.²⁷ The library was once twice its present size but was destroyed by fire and otherwise vandalized by inmates. The library currently has 13 typewriters—too few, according to staff. Ten additional typewriters are on order. With regard to the library's lack of State statutes, staff indicated that because Lewisburg is a Federal penitentiary, State statutes were not required. In any case, there is no money with which to make such purchases. The law library does, however, contain the District of Columbia Code (although in bad condition), because D.C. is a Federal enclave, and a donated set of State statutes for Alaska.²⁸

The library's hours of operation were expanded beginning May 11, 1981. The new hours are from 8:30 a.m. to 8:30 p.m., Monday through Thursday. On Friday and Saturday, the library is open from 8:30 a.m. to 3:30 p.m., and on Sundays, from 12:30 p.m. to 8:30 p.m. It is closed on holidays and once a month from 3:00 p.m. to 4:00 p.m. for staff meetings.²⁹ Staff indicated that the hours of operation were changed in order to provide inmates greater access. Responding to allegations of overcrowding, the staff representative stated that the library is not overcrowded after work except possibly on rainy days, when as many as 45 inmates might use the one-room facility.³⁰ Copying costs of 10 cents per page with a \$1.00 minimum are too high, the staff member agreed. Inmates are not knowingly permitted to copy work for others in order to aggregate the \$1.00 minimum, although it does happen.³¹

Staff indicated that Lewisburg has between 150–200 Hispanic inmates and that most of them cannot and do not use the library. Staff confirmed that there were no legal or general publications for use by Hispanics in the library, and attributed this lack to

the difficulty of locating sources for Hispanic literature.³² (See Appendix I.) Moreover, there is no one who is formally trained in library science to work at the library. The main law library does contain those volumes required by the Bureau of Prisons. These include the *Federal Reporter*, 2nd series; *Federal Supplements*; D.C. Code; *Black's Law Dictionary*; *United State Code* (containing Federal criminal statutes); and all of the Bureau of Prisons policy statements pertinent to the inmate population.³³

The law library in the segregation unit, housed in a single cell, is too small. Many of the books are damaged or mutilated. Its one and only typewriter was recently replaced with a new machine that inmates said was then commandeered by an officer of the segregation unit. In all three libraries, mutilated volumes are replaced as quickly as practical, generally once every 6 months.³⁴

Administrative Response

Administration officials maintained that the inmate law library was totally adequate and usually exceeded the requirements for law and legal materials to be held.³⁵ They maintained that the library was seldom overcrowded and that typewriters were readily accessible to inmates. They also indicated that copying hours from 11:30–12:00 noon were adequate to meet inmate needs.

Administrators asserted that the law library does contain various Spanish reading materials.³⁶ They also contended that the "Basic Law Library" located in the segregation unit exceeds requirements of the Bureau of Prisons, and that a typewriter has always been provided. Moreover, they asserted that staff members visit the segregation unit at least twice a week to handle inmate requests for legal materials.³⁷

²⁷ Toevs Interview.

²⁸ Toevs Interview.

²⁹ Toevs Interview.

³⁰ Toev Interview.

³¹ Toevs Interview.

³² Toevs Interview.

³³ Toevs Interview.

³⁴ Toevs Interview.

³⁵ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Law Library."

³⁶ Ibid.

³⁷ Ibid.

Administrative Remedies and Procedures

Introduction

Administrative remedies and procedures is the process by which an inmate seeks formal review of a complaint. The Bureau of Prisons has provided a basic three-tiered process to accomplish this. The process begins with a complaint to the warden, with rights of appeal to the regional director and ultimately to the general counsel. Many inmates complain that the process is one-sided in favor of the administration and is otherwise burdensome to use. Lack of faith in both the results and integrity of the process has been a source of frustration for inmates.

Bureau of Prisons Policy

The Bureau of Prisons has established an administrative remedy procedure through which an inmate may seek formal review of a complaint relating to any aspect of his imprisonment when less formal procedures have failed to resolve the matter. This procedure is available to all inmates confined in Bureau of Prisons institutions.¹

Duties

Responsibility for operation of the administrative remedy procedure at the institution rests with the warden, while appeals to the regional office and the central office are the responsibility of the regional director and general counsel respectively. Bureau policy requires the warden to establish procedures for receiving, reviewing, investigating, and responding to complaints. He must also acknowledge a

complaint by returning to the inmate a signed receipt. Moreover, the warden must also conduct an investigation of each complaint or appeal filed and respond to and sign all complaints or appeals filed at this level. Bureau policy expressly states that this responsibility may not be delegated. In addition, the warden is required to appoint a staff member above the department head level to coordinate operation of the administrative remedy procedure.²

Inmates are required to act responsibly and to present complaints in good faith, in an honest and direct manner.³ Complaints or appeals improperly filed will not be accepted, nor will complaints that are filed on behalf of other inmates.⁴

Filing Process

Bureau of Prisons policy requires that an inmate attempt informal resolution of his complaint prior to initiating a request for administrative remedy. The warden is given the latitude to develop procedures implementing informal resolution. When attempts at informal resolution prove unavailing, the inmate may initiate the administrative process by filing a formal written complaint within 15 calendar days of the date on which the basis for the complaint occurred. The inmate must utilize form BP-DIR-9 for this purpose and may receive assistance from other inmates or institution staff in preparing his complaint. Where an inmate believes that his complaint is of a sensitive nature and that knowledge of such a complaint would adversely affect him, he

¹ 28 C.F.R. §542.10(1980).

² *Id.* at §542.11.

³ *Id.*

⁴ *Id.* at §542.12.

may bypass the warden and file his complaint directly with the regional director.⁵

Appeals and Response Time

A complaint or an appeal is deemed to have been filed when the inmate is issued a receipt. From this point, the warden is allowed 15 days in which to respond to the inmate's BP-DIR-9. However, when it is determined that the complaint is of an emergency nature which threatens the inmate's immediate health or welfare, the warden must respond within 48 hours. If the inmate is not satisfied with the warden's response, the inmate has the right to appeal that decision. Appeal of a BP-DIR-9 is made directly to the regional director and must be made on a BP-DIR-10. A copy of the BP-DIR-9 and the warden's response must accompany the BP-DIR-10. This appeal must occur, if at all, within 20 calendar days of the date of the warden's response. The regional director must respond within 30 calendar days.⁶

If the inmate is not satisfied with the regional director's response, it may be appealed to the Bureau's general counsel using Form BP-DIR-11. The BP-DIR-11 must include a copy of both the BP-DIR-9 and the BP-DIR-10 as well as the responses to both. This appeal must be made within 30 calendar days from the date of the regional director's response. The general counsel shall have 30 calendar days from the date of filing the BP-DIR-11 in which to respond.⁷ Appeal to the general counsel's office is the final administrative appeal within the Bureau of Prisons.⁸

Field Observations

Inmate responses during field investigations to questions concerning Lewisburg's administrative remedies and procedures process were very limited. This was due, primarily, to a consistent and overriding view expressed by a majority of inmates interviewed. Simply put, inmates had little to say about the system because they do not use the system. They do not use the system because they have no faith in

the system. Inmates asserted that the merits of a complaint have very little to do with the warden's response and that "the administration sticks together."⁹

Wholly apart from their lack of faith in the system, inmates see access as a serious problem. Inmates maintain that the form BP-DIR-9, which initiates the administrative remedy process, can only be obtained from their counselor, who is not always available or who might refuse to issue the BP-DIR-9. They say that they are hassled by guards for filing BP-DIR-10's and 11's.¹⁰

In addition, according to inmates, the need to file a BP-DIR-8 before one can initiate the administrative remedy process is an added burden. Inmates said that the BP-DIR-8 requirement, only recently begun, was merely another way of discouraging use of the administrative remedies system. They say that the BP-DIR-8, which ostensibly evidences an attempt at informal resolution is, in fact, merely a request for permission to file a BP-DIR-9, because nothing is ever resolved informally at Lewisburg.¹¹ Inmates also stated that BP-DIR-8's were unavailable for inmates in segregation.¹²

Inmates contended that BP-DIR-9's are to be answered by the warden within 21 working days, but that they usually are not.¹³ They indicated that when the BP-DIR-9's are answered they are "signed by a paralegal instead of the warden."¹⁴ Another problem that inmates felt was pervasive was the administration's apparent refusal to compromise with an inmate. They felt that officials gave numerous excuses as to why they could not help an inmate.¹⁵

Staff Comments

Staff representatives indicated that the formal administrative remedies process is commenced by the inmate's filing of a BP-DIR-9. Staff did state that prior to the filing of the BP-DIR-9 informal attempts are made to resolve those problems that lend themselves to such resolution. Attempts at informal resolution are indicated by having the

⁵ Id. at §542.13.

⁶ Id. at §542.14.

⁷ Id.

⁸ Id. at §542.15.

⁹ Inmate Interview No. 17, Lewisburg Penitentiary, January 1981.

¹⁰ Inmate Interview No. 38, Lewisburg Penitentiary, January 1981.

¹¹ Inmate Interviews Nos. 45 and 90, Lewisburg Penitentiary, January 1981.

¹² Inmate Interview No. 12, Lewisburg Penitentiary, January 1981.

¹³ Inmate Interview No. 36, Lewisburg Penitentiary, January 1981.

¹⁴ Inmate Interviews Nos. 71 and 77, Lewisburg Penitentiary, January 1981.

¹⁵ Inmate Interviews Nos. 4 and 77, Lewisburg Penitentiary, January 1981.

inmate file a local form known as a BP-8, which is authorized by the warden pursuant to Bureau of Prisons policy. However, when an inmate refuses to file the BP-8, he may still request and his counselor has been instructed to provide him with a BP-DIR-9, which may be filed to commence the formal process of administrative remedy.¹⁶

Not all members of an inmate's unit team carry the BP-DIR-9 form. They are only carried by the counselor, with the exception of the segregation unit where the lieutenant carries the BP-DIR-9. Response to the BP-DIR-9 is signed by both the warden and the staff member responsible for the area of the inmate's complaint. The warden is allowed 15 days in which to respond, while staff members having responsibility for the particular area try to respond within 5 days.¹⁷

Administrative Response

Lewisburg's administrators asserted that contrary to inmate comments, inmates do, in fact, use the administrative remedies process. They stated that for the period from June 1980 through June 1981, a total of 1,381 requests for administrative remedies was filed.¹⁸ Of this number 48 requests were granted. The rest were either denied or disposed of in some

other manner. Of the 1,381 requests, 70 percent were requests for transfers to other institutions.¹⁹ Administrators also stated that the BP-8, a local form developed to insure compliance with national policy regarding informal resolution, has been utilized since January 1979, and is therefore not recently adopted, nor is it, according to administrators, an added burden for the inmates.²⁰

According to administrators, there has never been an occasion on which the paralegal has signed off on a BP-9 instead of the warden. By policy, the investigating officer affixes his signature along with the warden's on the form. The administration contended that there have been many instances where investigator's comments have differed from those of the reporting officer. However, in many more instances, the investigator has relied almost exclusively on the comments of the reporting officer.²¹ This latter situation was said to occur when the accused inmate presents no definitive evidence to the contrary.²² As to the inmates' claim that they have no right to confront witnesses against them, administrators asserted that *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) establishes that no such right of confrontation exists.

¹⁶ Kaufmann Interview.

¹⁷ Kaufmann Interview.

¹⁸ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Administrative Remedies."

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

Transfers, Furloughs, and Escorted Trips

Introduction

Notwithstanding an inmate's incarceration, the Bureau of Prisons provides that inmates may be transferred, furloughed, or authorized to make escorted trips under certain circumstances. Administrators charged with implementing Bureau policy assert that Bureau of Prison policy is carried out in a fair and equitable manner. Inmates argue that transfers, furloughs, and escorted trips are not granted fairly and that the exercise of such privileges works an unnecessary hardship on certain groups. This chapter examines Bureau policy in the area of transfers and furloughs and its implementation at the Lewisburg Penitentiary.

Bureau of Prisons Policy

The Bureau of Prisons has very explicit rules concerning the transferring and furloughing of inmates. They are generally initiated as the result of a change in security and/or custody needs of the inmate. A change in an inmate's security or custody level might necessitate moving the inmate to another institution with an appropriate security level. If the new facility is closer to the inmate's release area and is agreed upon by the regional office, the transfer is mandatory upon the inmate. Where the move is made to a facility that is farther from the inmate's release area and is to a less secure facility, the inmate may refuse to go. Whenever the move is to a more secure facility, the inmate has no choice. Normally

when an inmate is moved to a higher security level institution, the move will involve a change of only one security level. This principle of "gradualism" is in line with the Bureau's objective of confining the inmate to the least secure facility for which they qualify.¹

Type of Transfers

An inmate might be transferred for numerous reasons in addition to an increase or a decrease in the inmate's security or custody level. Transfers may be effected for medical or psychiatric reasons or due to an emergency.² Inmates who desire to participate in correctional research programming might be transferred to the Federal Correctional Institution at Butner, North Carolina, while medical emergencies give rise to a transfer to a local hospital for inpatient care. It must be noted, however, that transfers to the Butner Facility occur as the result of a random selection and are not voluntary. Inmates may opt out of the program after serving 90 days at the facility. Inmates in transit from one institution to another and who are held in holdover status may not be diverted from the intended receiving institution; thus, their movement from one facility to another while en route constitutes a transfer.³

When an inmate under central monitoring is to be moved, the warden must recommend the transfer to the assistant director, Correctional Programs Division, or the regional office. When a group distur-

¹ BOP Program Statement 51001.1 CN2, January 14, 1979. Designations (Security) and Classifications (Custody), Section 12(1).

² Id. at Section 4.

³ Id.

bance occurs, sometimes the participants are transferred. Transfers may also be made for disciplinary reasons. Unescorted transfers may occur when a chief executive officer transfers an inmate with community custody or out custody to another institution. Transfers are made to Federal and non-Federal community treatment centers. Finally, a warden may refer male inmates sentenced in D.C. Superior Court for transfer to the D.C. Department of Corrections at any time when:

- (1) The inmate has maintained good institutional adjustment and has not withheld or forfeited good time; and
- (2) transfer does not violate the original intention of placement in a Bureau of Prisons facility.⁴

There are, of course, exceptions to these enumerated categories of transfers. These exceptions either create additional basis upon which to transfer an inmate or serve to place limitations upon those previously enumerated.

Furloughs and Escorted Trips

The Bureau of Prisons defines a furlough as an authorized absence from the institution where the inmate is not on a work/study release program and is not under escort by a member of the staff or a U.S. marshal.⁵ The Bureau points out that a furlough is a privilege and not a right and is not granted as an automatic reward for good behavior. Furloughs are available only to those with community custody. No one at Lewisburg Penitentiary has such a custody classification. Lewisburg inmates may, however, be allowed to make escorted trips on an emergency basis—to visit a dying relative, for example.

Field Observations

Interviews with inmates revealed near unanimity as to the absence of furloughs for Lewisburg inmates. When questioned as to the availability of furloughs, inmates consistently responded “they don’t exist.” In those few instances where inmates continued to cling to the hope of possibly obtaining

a “furlough” (actually an escorted trip), they were pessimistic for two reasons. They related that before receiving a furlough, they would have to find two guards who would be willing to accompany them. They would then have to bear the costs for the guards’ wages, transportation, and meals.⁶

With regard to the availability of transfers, most inmates were equally unenthusiastic. One inmate stated “when an inmate mentions a furlough or transfer the staff laughs.”⁷ Inmates said that in order to be considered for a transfer one had to be an exceptional inmate and a demonstrated informant. This view was illustrated by the comments of another inmate who stated “informants are treated royally.”⁸ It was the inmates’ understanding that the decision to recommend a transfer or a furlough rested with the unit management team and that the final decision was made by the regional office and the warden.⁹ It was the inmates’ belief that the decision to recommend a furlough or a transfer was, in part, based upon consideration of the inmate’s proximity to home, destination upon release, length of time before one’s release, desire to continue one’s education, a lowered security level, and sometimes the need to make bed space.¹⁰

Hispanic inmates believed they were at a disadvantage insofar as being able to compete with other inmates for the few transfer slots which might become available. They contended that this was so because most are not bilingual and are therefore unable to earn a GED at Lewisburg.¹¹ They stated also that few, if any, are doing level one work in industry and that they are usually far from home, which results in very irregular family visits.¹² Hispanic inmates asserted that these factors were considered by the unit team when deciding whether to recommend an inmate for a transfer or furlough.¹³

Other inmates complained that Lewisburg inmates were never assigned to halfway houses. For inmates subject to central monitoring, the possibility of obtaining a transfer was even more remote because any move must be approved by Washington. In the

⁴ Inmate Interview No. 41, Lewisburg Penitentiary, January 1981.

⁵ Inmate Interview No. 65, Lewisburg Penitentiary, January 1981.

⁶ Inmate Interview No. 28, Lewisburg Penitentiary, January 1981.

⁷ Inmate Interview No. 38, Lewisburg Penitentiary, January 1981.

⁸ BOP Program Statement 5100.1 CN 2, February 14, 1979. Designations (Security) and Classifications (Custody), section 12.

⁹ BOP Program Statement 5280.2, June 26, 1981. Furloughs, section 3.

¹⁰ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

¹¹ Inmate Interviews Nos. 2, 4, 10, and 27, Lewisburg Penitentiary, January 1981.

¹² Inmate Interviews Nos. 2, 10, 26, 27 and 4, Lewisburg Penitentiary, January 1981.

¹³ Inmate Interviews Nos. 12 and 14, Lewisburg Penitentiary, January 1981.

words of one inmate, "If there's a worse place than Lewisburg, I would not like to see it."¹⁴ Most inmates at Lewisburg expressed the view that if there is one thing at Lewisburg on which you can always rely, it is that "the administration will always act contrary to the inmate's desire."¹⁵

Staff Comments

Staff comments on Lewisburg's transfer and furlough policies were limited. Staff did indicate, however, that the inmate's custody classification was only one of several variables to be considered in deciding whether an inmate would be recommended for a transfer.¹⁶ Prison staff indicated that consideration would be given to the residence of the inmate's family and to the length of his sentence. An inmate might be transferred for educational reasons such as the desire to continue a college program when such programs were not available at Lewisburg.¹⁷ Violence in the inmate's record would also be considered and would probably prevent the transfer of an inmate from behind the wall to the farm. Regardless of the reason for the transfer, there is always an attempt to relocate the inmate to institutions nearer to the community where the inmate will ultimately be released.¹⁸

Administrative Response

Lewisburg administrators offered an explanation for the unanimity among inmates as to the nonexistence of furloughs at Lewisburg. Administrators explained that Lewisburg is a security level 5 institution and does not have authority to grant community custody to inmates. They further explained that only inmates who have community custody are eligible for an unescorted furlough. Inmates who are recommended for custody reduction are referred for transfer to lower level institutions.¹⁹

With regard to escorted trips for emergency situations, such as visits to the bedside or funeral of immediate family members, administrators asserted that inmates are not required to pay the cost of escorting officers' salaries for the first 8 hours.²⁰

¹⁴ Inmate Interviews Nos. 12 and 14, Lewisburg Penitentiary, January 1981.

¹⁵ Inmate Interviews Nos. 12 and 14, Lewisburg Penitentiary, January 1981.

¹⁶ Kaufmann Interview.

¹⁷ Kaufmann Interview.

¹⁸ Kaufmann Interview.

¹⁹ Response to Lewisburg Prison draft report, submitted by

However, after the first 8 hours, the inmate does pay the officers' salary and the cost of transportation. The inmate must also pay for meals for both the officers and himself and for overnight lodging for the officers, if necessary.²¹ Inmates are not responsible for finding staff to escort them; officers are recruited from staff volunteers or are assigned by the chief executive officer. Administrators indicated that during the past year, ten escorted trips had occurred and that none had been disapproved or cancelled due to the unavailability of staff.²² Approval for escorted trips was said to be contingent upon the nature of the emergency, relationship to the person visited, seriousness of inmate's prior record and instant offense, existence of detainers, and the length of sentence.²³

Administrators contended that with respect to transfer requests, all such requests are considered by unit teams based upon the nature of the request. They stated it was not the policy or procedure of the Bureau of Prisons to reward inmates with transfers for informant activities, and that it was only in cases where an inmate's informant activities became known to the general population and his safety was jeopardized that a transfer was effected.²⁴

Administrators disputed allegations by Hispanic inmates that they were unable to compete with other inmates for transfers because they are not bilingual or because their placement at Lewisburg results in irregular family visits. Administrators stated that Lewisburg offers programming for inmates in English as a second language, although there is no instructor for the program. It was stated that other staff who have limited fluency in Spanish also attempt to assist inmates with adult basic education programming, and that the GED test can be administered in Spanish to Hispanic inmates.²⁵ Administrators pointed out that Hispanic inmates who are not fluent in English can present requests for transfers through Spanish speaking staff or through other Hispanic inmates.

Administrators stated that the majority of Hispanic inmates at Lewisburg are from New York City

Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Transfer/Furlough."

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

and that with the exception of Bureau facilities in New York City, Otisville, New York, and Danbury, Connecticut, the Lewisburg Penitentiary is the closest Federal facility to New York City. Administrators indicated that since January 1981 (after visits by the Commission on Civil Rights), ten Hispanic inmates had been referred to Otisville; Ray Brooke, New York; Danbury; or the Metropolitan Correc-

²⁶ Ibid.

tional Center (New York City) to be closer to home near release or for assignment to a lower-level security facility.²⁶ Administrators also pointed out that contrary to inmate allegations that Lewisburg inmates are never assigned to halfway houses, 45 of the 121 releases for the period of January through June 1981 (37 percent) were placed in community treatment centers prior to release.²⁷

²⁷ Ibid.

Administrative Detention and Disciplinary Segregation

Introduction

Even in circumstances of incarceration there are times when certain individuals must, for the good of themselves or others, be removed from the general population. The process of removal and the treatment which is to be afforded those who are removed is an issue of great concern to both the Bureau of Prisons and to inmates. Assessing the validity of inmate claims of discrimination and inhumane treatment is a difficult task requiring close scrutiny of inmate, staff, and administrative allegations alike. A determination must then be made regarding the extent to which the Lewisburg administration has complied with Bureau of Prison policy. This chapter undertakes such an analysis and determination.

Bureau of Prisons Policy

One of the leading cases in the area of inmate discipline is that of *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974). *Wolff* sets forth the standards governing the due process rights that must be afforded prisoners in matters involving serious disciplinary charges. There, the Supreme Court stated that for serious disciplinary charges involving "loss of good time" (time off the maximum or minimum sentence for good behavior) or confinement in segregated or solitary housing, a prisoner is entitled to:

- 1) advance written notice of the charges;
- 2) a written statement of the factfindings, the evidence relied upon, and the reasons for action;

- 3) a limited right to present witnesses and documentary evidence, subject to veto by the administrator.¹

A prisoner is not entitled to:

- 1) confront and cross-examine witnesses;
- 2) counsel;
- 3) a tribunal composed of nonprison officials.²

Disciplinary Procedure

The disciplinary process established by the Bureau of Prisons has essentially four steps. Step one requires activity by an inmate that might be commission of a prohibited act. At this point the observing officer may either resolve the incident informally, or he may drop the charges. If neither is done, the second step begins. The officer who observed the incident prepares what is known as an "incident report," containing a detailed description of what happened. This incident report is forwarded to the officer's supervisor (lieutenant of the day), who also has the option of informally resolving the matter or dropping the charges. If the attempt at informal resolution fails and charges are not dropped, an investigator will conduct an investigation of the incident, and the results shall be forwarded to the Unit Disciplinary Committee (UDC). The inmate must be notified of the charges against him within 24 hours after the staff becomes aware of his involvement in the incident.³

The third step in the disciplinary process is that of the initial hearing before the Unit Disciplinary

¹ 28 C.F.R. §541.12 (1980).

² *Id.* at §541.13.

³ *Id.* at §541.15.

Committee. This committee is authorized to drop or to dispose of, through informal resolution, all charges against an inmate except those which the Bureau categorizes as "greatest severity" offenses. Greatest severity offenses include killing, assaulting any person (including sexual assault), escape, arson, possession of a dangerous weapon, etc. The UDC must refer all such incidents to the Institutional Disciplinary Committee (IDC). An inmate must have the UDC hearing within 48 hours after the staff becomes aware of his involvement in the incident. At this stage of the disciplinary process, the inmate is entitled to be present, to make a statement, and to present documentary evidence in his own behalf. When charges are to be referred to the IDC, the UDC is further required to notify the inmate of the rights afforded him at the IDC hearing. The UDC is required to ask the inmate to indicate his choice of staff, if any, to represent him and for the names of witnesses the inmate may wish to call at the subsequent IDC hearing.⁴

The fourth step in this process is the hearing before the Institutional Disciplinary Committee. The inmate may not be brought before the IDC until a minimum of 24 hours has passed since he received notice of the charges against him. However, this 24-hour minimum may be waived by the inmate in writing. The IDC may impose major or minor sanctions, or it may drop the charges. In addition to the right to staff representation, the inmate is also entitled to make a statement and to present documentary evidence in his own behalf.⁵ It should be noted that inmates are usually placed in lockup when the observing officer presents the incident report to his supervisor. Inmates have the right to appeal all final decisions of either the UDC or the IDC by utilizing the administrative remedies procedures previously discussed in Chapter VI.⁶

Housing for Inmates in Detention

Each Federal prison that must house inmates separate from those in the general population is required to establish a special housing unit contain-

ing cells both for inmates in administrative detention and those in disciplinary segregation. Administrative detention, as well as disciplinary segregation, is defined as the status of confinement of an inmate in a special housing unit in a cell, either by himself or with another inmate, that serves to remove the inmate from the general population. However, inmates housed in disciplinary segregation have significantly fewer privileges.⁷

The maximum time that an inmate may spend in disciplinary segregation for committing a single offense is 60 days,⁸ while 90 days is ordinarily the maximum time for confinement in administration detention.⁹ An inmate is subject to administrative detention for a number of reasons. He might be placed in administrative detention pending a hearing or investigation of an institutional infraction; an investigation or trial for a criminal act; a transfer; or pursuant to a request for protection. Administrative detention is to be used only for short periods of time except where an inmate needs long term protection.¹⁰

Inmates housed in disciplinary segregation, except in emergency, may not exceed the number of persons per cell or room than the space was designed for.¹¹ These housing limitations also hold true for inmates housed in administrative detention.¹²

Inmates in disciplinary segregation are to be afforded the opportunity to maintain an "acceptable" level of personal hygiene. This includes the opportunity to shower and shave at least three times per week, unless such procedures would present an undue security hazard.¹³ Inmates in detention are under the direct supervision of the unit officer, and a member of the medical department and one warden or more responsible officers designated by the warden are required to see each segregated inmate daily, including weekends and holidays.¹⁴ Each of the conditions enumerated above is equally applicable to inmates housed in administrative detention.¹⁵

⁴ Id. at §541.17.

⁵ ID. at §541.19.

⁶ BOP Program Statement 5270.3, March 21, 1979, Inmate Discipline, section 11(d).

⁷ 28 C.F.R. §541.21 (1980).

⁸ Id. at §541.20.

⁹ Id. at §541.19(c).

¹⁰ Id. at §541.19(d).

¹¹ Id. at §541.19(c).

¹² Id. at §541.19(c)(9).

¹³ Id. at §541.20(d).

¹⁴ Lewisburg Prison was used to house approximately 100 of the more severely maladapted Cuban refugees from Ft. Indiantown Gap, Pennsylvania.

¹⁵ Inmate Interview No. 17, Lewisburg Penitentiary, January 1981.

Field Observations—Disciplinary Process

Field investigations did not indicate how or when an inmate first became aware of the disciplinary process utilized at the Lewisburg Penitentiary. However, it was readily apparent that inmates were very familiar with the process. In fact, approximately one-fourth of those interviewed indicated that they had personal knowledge of the system as the result of having been placed in either administrative detention or disciplinary segregation subsequent to their 2-week arrival and orientation period.

The inmates' understanding of the various steps involved in the disciplinary process essentially parallels that outlined by the Bureau of Prisons with one or two notable exceptions. According to the Bureau, the disciplinary process commences with the observation by an officer of inmate activity involving the possible commission of a prohibited act. This officer can either resolve the incident informally or drop the charges. Inmates, however, consistently see the disciplinary process as starting when the officer writes a shot.¹⁶ According to inmates, there is no attempt at informal resolution and charges are not dropped by the lieutenant of the day.¹⁷ The second exception involves the appointment of an investigator by the lieutenant of the day. Of the total number of inmates interviewed (107), not one ever mentioned an investigation of the incident as a step in the disciplinary process. Their view was that as far as prison officials knew, the incident was whatever the observing officer indicated it was.¹⁸

Time Limitations

Inmates were well aware of the time requirements regarding when they were to be given a copy of the incident report, be brought before the UDC, and appear before the IDC. Consistent with the Bureau's policy statement, inmates stated that if locked up as the result of having a shot, they must receive a copy of the incident report within 24 hours of being locked up. Inmates also knew that they must appear before the UDC within 48 hours after being locked up.¹⁹

Finally, inmates were aware of the Bureau's requirement that they not be brought before the

IDC before a period of at least 24 hours had passed since being given notice of the charges (notice of charges are given at the UDC hearing; thus, at least 24 hours must pass after the inmate has the UDC hearing before he appears before the IDC). Inmates also knew of their right to waive the 24-hour notice requirement.²⁰

Though they were aware of the time requirements, inmates pointed to several instances where practices at Lewisburg have varied from Bureau policy. One inmate complained of having been left in administrative detention for 4 days without receiving a shot when the Cubans were brought in.²¹ An Hispanic inmate complained of having been placed in disciplinary segregation for an 8-day period without knowing why. At the time, the inmate did not understand or speak English.²² Another time-related problem of which inmates complained concerned waiver of the 24-hour rule. An inmate might consider waiving the 24-hour rule in order to expedite his appearance before the IDC. It should be noted that the time spent between lockup and an inmate's appearance before the IDC is "dead-time" and is not counted toward any sentence which the IDC might impose.²³

The following situation presents an example of when a waiver-situation might arise. An inmate is locked up on Wednesday morning at about 11:30 a.m. He is given a copy of the incident report at the time of his lockup. He is brought before the UDC on Friday at approximately 12:00 noon. The UDC recommends referral to the IDC. Pursuant to the rules at Lewisburg, the inmate cannot be brought before the IDC prior to Monday at 12:00 noon (24 hours) because weekends and holidays are not to be counted for purposes of disciplinary time tables. Thus, in this situation, the inmate must not be seen by the IDC prior to Monday noon and not later than Wednesday, noon, which is the end of the 72 hour period. Rather than spend another 2 days of dead-time in lockup, the inmate might waive the 24 hour rule in hope of appearing before the IDC on Friday afternoon.

However, having waived the 24 hour rule, the inmate has also waived his right to be seen by the

¹⁶ *Id.*

¹⁷ Estrada Interview.

¹⁸ *Wolf vs. McDonnell*, 94 S.Ct. 2963 (1974).

¹⁹ *Ibid.*

²⁰ Inmate Interviews Nos. 12, 14 and 19, Lewisburg Penitentiary, January 1981.

²¹ Inmate Interviews No. 15, 19, 20, and 23, Lewisburg Penitentiary, January 1981.

²² Inmate Interviews Nos. 4, 10, 17, and 23, Lewisburg Penitentiary, January 1981.

²³ Inmate Interviews Nos. 14, 16, and 17, Lewisburg Penitentiary, January 1981.

IDC within 72 hours. Inmates complain that that this waiver tactic is used to increase the number of "dead days" that an inmate must spend in lockup prior to serving his sentence.²⁴ They say, in fact, that it is routine for an inmate to spend 7 days in lockup awaiting an IDC hearing.²⁵

Representation before UDC and IDC

Another problem cited by inmates is their lack of representation at UDC and IDC hearings. No right of representation attaches to hearings before the UDC, although the inmate is entitled to be present and to present documentary evidence in his own behalf. Even at the IDC hearing where the right of representation does exist, inmates complain that representation is inadequate. An inmate is required, at the close of the UDC hearing, to name any witness he intends to call and his choice of representative for the IDC hearing. According to inmates, the choice of a representative must be limited to a member of the inmate's unit management team. It is this same unit management team which referred the matter to the IDC. Thus, inmates felt that there was little chance of finding a member of this team to advocate their position effectively.²⁶ Inmates stated that this system was woefully inadequate insofar as providing due process. In addition, inmates said that they were not allowed to confront the witnesses against them.²⁷

Closely related to hearings before the UDC and IDC was what inmates charged as the practice of changing the shot. Inmates asserted that the charges against them were sometimes changed between the time the lieutenant verbally informed the inmate of why he was being locked up and the time at which the inmate actually received a copy of the incident report. Inmates claimed that this practice makes the task of defending themselves much more difficult.²⁸

Condition of Housing

Inmates are placed in administrative detention for numerous reasons including the commission of an

institutional infraction, suspicion of committing an infraction, investigative procedures, inmate copout, or an inmate's own request for protection. Inmates stated that they could remain locked up in administrative detention for a maximum of 90 days without being charged; i.e., for investigation pursuant to a copout. While inmates apparently recognized that attempts are made to maintain privileges for those in administrative detention, as opposed to disciplinary segregation, they felt that the distinction was often not very clear. However, it was clear that those inmates housed in disciplinary segregation suffered a complete loss of good time, days in segregation, janitorial duty, limitation to one 15-minute phone call every 90 days, loss of commissary privileges, severe limitation on reading materials, loss of movie privileges, irregular mail delivery, loss of rights to shower, and loss of recreation period.²⁹

While the Bureau maintains that even under disciplinary segregation certain minimum living standards are maintained, inmates asserted otherwise. Contrary to the requirement that, other than in an emergency, cells used to house inmates in segregation should hold only the number of inmates for which they were designed, Lewisburg inmates cited numerous violations. They asserted that cells in the segregation unit became overcrowded whenever a new bus load of transients arrived at Lewisburg.³⁰ Others stated that overcrowding was more the norm than the exception with cells being overcrowded up to 80 percent of the time.³¹ In times of overcrowding, inmates said it was not uncommon to find three inmates housed together in a 2-man cell with a third mattress on the floor.³²

Inmates further alleged that supervision in the segregation unit was poor. They stated that guards did not regularly check on inmates as required by Bureau policy and that medical attention was also deficient.³³ Inmates asserted that in order to see the medical technician assistant (MTA), who makes his rounds through segregation every other day, the

²⁴ Inmate Interview No. 17, Lewisburg Penitentiary, January 1981.

²⁵ Inmate Interview No. 17, Lewisburg Penitentiary, January 1981.

²⁶ Inmate Interviews Nos. 17, 18, and 19, Lewisburg Penitentiary, January 1981.

²⁷ Inmate Interview No. 16, Lewisburg Penitentiary, January 1981.

²⁸ Inmate Interviews Nos. 14 and 17, Lewisburg Penitentiary, January 1981.

²⁹ Inmate Interviews Nos. 20 and 23, Lewisburg Penitentiary, January 1981.

³⁰ Inmate Interviews Nos. 3, 5, 10, and 16, Lewisburg Penitentiary, January 1981.

³¹ Inmate Interviews Nos. 14 and 17, Lewisburg Penitentiary, January 1981.

³² Inmate Interview No. 14, Lewisburg Penitentiary, January 1981.

³³ Inmate Interview No. 14, Lewisburg Penitentiary, January 1981.

inmate must place a sign in his cell stating that he's sick.³⁴ One inmate stated that he had to set paper afire and burn it in his cell window in order to get medical attention for another inmate who was convulsing.³⁵ Inmates also told of guards who would turn on the air conditioning during the winter and the heat during the summer. Conditions such as these, according to inmates, are admittedly extreme yet unfortunately not infrequent.³⁶

Staff Comments

Lewisburg staff maintained that usually an attempt was made to resolve minor offenses informally in order to forego the formalities of UDC and IDC hearings. Informal resolution is attempted when the problem presented is one that can be resolved through a sit-down conversation such as having an unsanitary cell. However, when informal resolution fails, the inmate is placed in segregation pending an investigation of the shot. The staff maintained that the inmate is usually seen by the UDC on the following day.³⁷ The inmate is then seen by the IDC the next time it meets. The IDC meets on Monday, Wednesday, and Friday. Staff did indicate that while it is possible, it would be most uncommon for an inmate to spend as long as one week in segregation before seeing the IDC.³⁸ The usual time is well within one week.

Lewisburg staff asserted that when an inmate is placed in administrative detention as the result of a copout, the investigation lasts no more than 30 days.³⁹ However, when criminal charges have been filed against the inmate and the FBI investigates, the time spent in detention might be considerably longer.⁴⁰ Inmates who are placed in segregation for protection usually stay until the investigation discloses whether or not there is a bona fide threat to the inmate's life. If the threat of assault is validated, the matter is referred to the unit team, who, in turn, may refer the matter to the regional office for a transfer.⁴¹

Staff members disclosed that while they do not rush investigations in protection cases, the longest one

they were aware of had taken approximately 3 weeks.⁴²

The staff representative explained that overcrowding in the segregation unit was no longer a problem. He explained that Lewisburg, for a while, had been receiving a large number of holdovers (inmates in transit to other facilities), and that these prisoners as well as Lewisburg's own inmates were both housed in the segregation unit.⁴³ During this period of time, Lewisburg did experience some overcrowding in the segregation unit. Perhaps three to six 2-man cells held three inmates each. The representative stated that this situation had been only temporary, was alleviated as soon as possible, and was no longer a problem. The staff member stated that the segregation population was, at the time of the interview, low (150-160 inmates).⁴⁴

With regard to medical services, the prison official interviewed asserted that the physician's assistant makes a regular tour of the segregation unit each morning and again at the evening watch.⁴⁵ In addition, one of the two guards assigned to each floor of the segregation unit makes a regular tour of the floor. As to representation before the IDC, Lewisburg staff contended that an inmate may be represented by any staff member, not merely members of his unit team. This staff person was unaware of any instance in which an inmate's shot had been changed.⁴⁶

The staff conceded that it was possible that inmates in the segregation unit were harassed by guards. One official stated that although he was unaware of any such incident, he assumed that if an inmate threw urine on a guard, the officer would probably feel that he had to do something "to pay the inmate back."⁴⁷ He stated that 7 or 8 officers were assigned to the segregation unit, two of whom were members of a minority group. He further stated that because of different personalities, it was always possible that some form of harassment might occur, though he was unaware of any. The staff representative also stated that during staff meetings

³⁴ Inmate Interview No. 14, Lewisburg Penitentiary, January 1981.

³⁵ Inmate Interview No. 14, Lewisburg Penitentiary, January 1981.

³⁶ Inmate Interview No. 14, Lewisburg Penitentiary, January 1981.

³⁷ Inmate Interviews on file, Lewisburg Penitentiary, January 1981.

³⁸ Lieutenant Ruay Estrada, Special Intelligence Supervisor, Interview at Lewisburg, Pennsylvania, May 21, 1981 (hereinafter cited as Estrada Interview.)

³⁹ Estrada Interview.

⁴⁰ Estrada Interview.

⁴¹ Estrada Interview.

⁴² Estrada Interview.

⁴³ Estrada Interview.

⁴⁴ Estrada Interview.

⁴⁵ Estrada Interview.

⁴⁶ Estrada Interview.

⁴⁷ Estrada Interview.

his captain has instructed officers to allow inmates to shower and to take recreation as required by the manual.⁴⁸

Administrative Response

Administrative personnel maintained that contrary to inmate assertions, informal resolution of complaints is routinely carried out by the lieutenants. The process ordinarily involves the lieutenant suspending processing of the incident report while the inmate performs "extra duty."⁴⁹ Administrators also took exception to inmates' claims that incident reports are not investigated. Administrators contended that although the results of the investigation are not disclosed to the inmate, all incident reports are always investigated, and that in every case the inmate is interviewed.⁵⁰

Lewisburg administrators indicated that inmate representatives at the IDC hearing may include any fulltime staff member, and that such representation is not limited to members of the inmate's unit management team. However, administrators said that unit team members are often selected because of their knowledge of the case. With regard to what inmates

described as "changing the shot," administrators contended that changing the prohibited act to represent the described infraction properly is consistent with policy and incident report format.⁵¹

Administrators contended that the administrative detention and segregation units were adequately staffed to provide proper supervision of inmates.⁵² Moreover, they asserted that a hospital staff member, a physician's assistant, visits the administrative detention unit on each 8-hour shift, amounting to 3 visits per day. Prison administrators indicated that inmate assertions about air conditioning being turned on in the winter and heat in the summer are wrong. Lewisburg does not have air conditioning, nor does the facility have the capacity to provide instant heat during the summer, because the heating system requires approximately one week to activate.⁵³ Prison administrators also stated that staff members in the performance of their professional duties do not retaliate because of inmate misconduct.⁵⁴

It was the view of Lewisburg's administrators that inmates housed in disciplinary segregation do receive regular mail delivery as well as showers and exercise consistent with Bureau of Prisons policy.⁵⁵

⁴⁸ Estrada Interview.

⁴⁹ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Administrative Detention/Disciplinary Segregation."

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

Religious Freedom

Introduction

Litigation by Black Muslims in *Cooper v. Pate*,¹ by Orthodox Jews in *Kahane v. Carlson*,² and by Buddhists in *Cruz v. Beto*³ has unmistakably established the right of incarcerated offenders to practice their religious beliefs. Bureau of Prisons policy recognizes this right and allows every inmate to practice his religious belief within the limits of institutional security. Some inmates at the Lewisburg penitentiary maintain that they are unjustifiably denied the opportunity to practice their religion, while others assert that the administration shows deference to certain religious groups. This chapter examines these allegations.

Bureau of Prisons Policy

In its program statement on religious beliefs and practices, the Bureau of Prisons claims to extend to each inmate the greatest amount of freedom and opportunity for pursuing individual religious beliefs and practices that is consistent with the maintenance of security and good order at the institution. The Bureau provides, however, that when the maintenance of security or good order requires, the warden may either limit or completely discontinue a religious activity, service, or meeting. Participation in a religious activity or service may not be restricted on the basis of race, color, nationality, or creed by the warden or by any member of a religious group or service.⁴

¹ 378 U.S. 546 (1964) (per curiam).

² 527 F.2d 492 (1975).

³ 405 U.S. 319 (1972) (per curiam).

Procedure

Inmates may receive assistance in the knowledge and understanding of their religion from the institutional chaplain who, upon request, is also available to provide pastoral care, counseling, and religious instruction. It is the chaplain who, under general supervision of the warden, is responsible for coordinating all religious services, meetings, ceremonies, and related activities. In arranging these activities the chaplain must consider competing requests for time and space among various religions. In institutions where there is no chaplain, these services may be delegated to a staff member appointed by the warden. In addition, the institution may contract with clergy, spiritual advisors, or representatives of faith groups in order to obtain necessary services.⁵

Inmates are free to designate any or no religious preference, and their designation may be changed at any time. The Bureau's policy statement provides that staff may not speak disparagingly about an inmate's religious beliefs, nor deliberately seek to persuade an inmate to change his religious affiliation. Moreover attendance at all religious ceremonies, services, etc., is voluntary.

During a religious service, an inmate may wear appropriate personal, liturgical, or ceremonial apparel. The apparel, including items such as robes, prayer shawls, prayer rugs, phylacteries, medicine pouches, beads, and medallions may be retained by the inmate, provided that retention does not violate

⁴ 28 C.F.R. §548.10 (1980).

⁵ Id. at §548.11.

the security or safety of the institution. In addition, an inmate may, at times other than religious services or activities, wear within the institution religious headgear such as yarmulkes and kufis as prescribed by the respective faith group. Toward this end, Bureau policy requires the institution chaplain to obtain a documented determination of a faith group's official prescriptions concerning religious head gear.⁶

Religious Diet Requirements

The Bureau of Prisons seeks to accommodate the religious diet requirements of inmates within the constraints of standard ration allowances, budget limitations, and consideration of the security and orderly running of the institution. It is Bureau policy that inmates who wish to observe religious dietary laws will be provided a diet sufficient to sustain them in good health without violating those dietary laws.⁷

Use of Pork

The Bureau of Prisons requires that in the preparation of its 35-day cycle menu, staff must identify with an asterisk all food items to be prepared or seasoned with pork or pork derivatives. Staff shall post the menus with pork items identified in all dining rooms and inform the institution population of the asterisk's meaning. In those instances where the menu offers only one vegetable for a meal, pork or pork derivatives may not be used in its preparation. Where more than one vegetable is offered, at least one must be pork-free.⁸

Kosher Foods

The Bureau of Prisons provides a menu of kosher foods for those inmates who wish to observe Jewish dietary laws. Inmates are required to sign a statement to that effect, which is then presented to and discussed with the institution's chaplain. Upon presentation of the statement the inmate is entitled to receive kosher foods as soon as practical. The inmate, who continues to receive kosher foods as long as he observes the dietary laws, may be removed from the kosher food program by the warden for failure to observe the laws. Such failure

is evidenced by the inmate's eating nonkosher food.⁹ All foods provided to inmates observing the Jewish dietary laws must be either certified or otherwise deemed acceptable by the Kasruth Division of the Union of Orthodox Jewish Congregations of America, or any other Jewish agency deemed acceptable by the inmates at the local institution.¹⁰

Observance of Religious Holidays, Services and Ceremonies

The Bureau of Prisons has provided that in situations where important religious holidays or celebrations do not coincide with legal holidays, the warden shall endeavor to facilitate their observance in accordance with the specific requirements of the faith group. A request for specific observance of the holiday must be initiated by the inmate. The specific religious requirement must be verified by a chaplain or appropriate religious consultant.¹¹

Field Observations

According to most inmates, the opportunity to practice their religious beliefs was not seen as a problem area. Many inmates commented upon the gains which they had made in this regard over the past 2 or 3 years. However, several groups complained about the inequities between the religious accommodations that the Lewisburg administration had made for one group as opposed to another.

Some members of the Muslim faith point with a sense of righteous indignation to the administration's failure to provide them with a separate kitchen in order that they might observe Muslim dietary laws by eating a pork-free diet.¹² They maintain that even though the institution might provide some pork-free meals, the preparation of these meals has been contaminated by utilizing the same cooking utensils as were used to prepare meals containing pork.¹³ Muslim inmates pointed out that Lewisburg's Jewish inmates have a separate kitchen, food, and utensils for preparation of kosher meals. They asserted that the difference in treatment was attributable to race.¹⁴

Muslim inmates complained further that the general menu on some occasions contained no foods that were pork-free, and that they must fast in order

⁶ Id.

⁷ Id. at §547.10.

⁸ Id. at §547.11.

⁹ Id. at §547.12.

¹⁰ Id. at §547.13.

¹¹ Id. at §548.13.

¹² Johnson Interview.

¹³ Public Law 95-341, August 11, 1978.

¹⁴ Inmate Interviews Nos. 4, 6, 16, and 24, Lewisburg Penitentiary, January 1981.

to observe Muslim dietary laws. Some Muslim inmates asserted that Muslims generally have more trouble with the administration than do other religious groups, and that they were more often placed in segregation. Finally, they contended that the Lewisburg administration did not accommodate followers of the Moorish Science and Muslim faiths to the extent that they accommodate Catholics and Jews.¹⁵

Some Jewish inmates complained that the Lewisburg staff had intentionally contaminated the Jewish kitchen by placing nonkosher foods in their refrigerator. They also complained that the prison often runs out of kosher foods and that staff members try to "catch" Jewish inmates eating nonkosher foods in order to withdraw them from the kosher program.¹⁶

Hispanic inmates complained that no bilingual priests were available to hear their confessions. They asserted that they had requested and been denied the opportunity to celebrate one of their most important religious holidays, the Three Wise Men on January 6, instead of celebrating Christmas day.¹⁷

American Indian inmates maintained that they have been systematically denied the opportunity to practice their religious beliefs at Lewisburg. Though the prison currently has only six American Indian inmates, five of them belong to a group known as the Spiritual/Cultural Council of Native Nations. The Lewisburg Spiritual/Cultural Council of Native Nations, formed in January 1980 by 10 American Indians at Lewisburg, has been trying to gain the right of American Indians to exercise their religious beliefs.¹⁸ Inmates claim that they have attempted, unsuccessfully, to redress their complaints through the administrative remedy process. They have asked to be granted the right to reasonable access to a sweat lodge at the prison, to wear a medicine pouch, and to use pipes and sacred herbs in their religious ceremonies. The inmates maintained that even after providing information as to the types of materials needed and their source that the administration has failed to respond.¹⁹

Moreover, inmates claimed that prison staff, after agreeing to meet with a representative of the

¹⁵ Inmate Interviews Nos. 6, 16, and 24, Lewisburg Penitentiary, January 1981.

¹⁶ Inmate Interviews Nos. 4, 6, 16, and 24, Lewisburg Penitentiary, January 1981.

¹⁷ Inmate Interviews Nos. 16 and 24, Lewisburg Penitentiary, January 1981.

¹⁸ Inmate Interview No. 106, Lewisburg Penitentiary, January 1981.

International Indian Treaty Council, had failed to arrange such a meeting. American Indians believe that they are the victims of discrimination regarding the exercise of their religious beliefs in violation of both the First Amendment of the United States Constitution and of the Bureau of Prisons' own policy. They assert that such discrimination does not occur with other religious groups.²⁰ For a summary of the guidelines followed by Lewisburg's administrators to meet the religious needs of American Indians see Attachment No. 3 in Appendix II.

Staff Comments

The Lewisburg prison retains two full-time chaplains. One is Catholic and is responsible for the religious needs of Catholic and Muslim inmates, while the other is Protestant and is responsible for the religious needs of American Indians and Jews. According to staff, four Muslim sects are represented at Lewisburg, including the Sunni, Moorish Science, Nation of Allah, and American Muslim Mission. Staff indicated that neither the Bureau of Prisons nor the Lewisburg administration is fully aware of the religious requirements of the various religious groups represented at Lewisburg, and that acquiring this awareness was an ongoing process. Lewisburg staff corresponds with various outside groups such as the Islamic Center in Washington, D.C., in order to learn of religious requirements.²¹

One problem encountered by staff is that many Muslim groups have no national authorities to whom Lewisburg staff can turn in order to learn of religious requirements. This is not true of Catholics and Protestants. While each Muslim group has provided staff with the names and locations of their respective mosques, problems continue to arise. For example, some Muslim sects claim that a dispensation can be granted from the salat prayer, while other sects say that no variation can be made. Lewisburg staff stated that the salat prayer is allowed at any time during the day except during

¹⁹ Inmate Interviews Nos. 12 and 14, Lewisburg Penitentiary, January 1981.

²⁰ Inmate Interviews Nos. 108 and 109, Lewisburg Penitentiary, January 1981.

²¹ Inmate Interviews Nos. 108 and 109, Lewisburg Penitentiary, January 1981.

work because "it interferes with security and production."²²

Native Americans also present a problem according to staff. A law was passed in 1978 protecting Indian religious practices.²³ According to staff, Lewisburg never has more than 6-10 American Indians at any given time. Lewisburg's American Indian population requested and was granted permission to utilize the chapel for religious practices in April 1980.²⁴ However, staff asserted that because Indian culture and religion are so intertwined it is difficult to separate the two. Practices vary from tribe to tribe.²⁵

Lewisburg's American Indian population has requested a sweat lodge for use during religious practices. A sweat lodge is a structure made of timber selected from various types of wood. Its shape is similar to a teepee. Inside, the structure contains a pit with heated rocks. The sweat lodge is used during the cleansing ritual; its frequency of use is the main bone of contention. American Indians have also requested that each Indian inmate be allowed to carry a medicine pouch during rituals. This pouch contains feathers, sage, sweet grass, pipe, headbands, etc. Outside inspection of the medicine pouch is sacrilegious, according to the American Indians. Staff maintains that in the interest of security, any medicine pouch would have to be inspected.²⁶

Lewisburg does have the services of a rabbi who visits the prison on a part-time basis. The Jewish kosher kitchen resulted from a Federal court order and not from a spontaneous decision of the Bureau to accommodate Jewish prisoners in particular. Staff disclosed that litigation is pending regarding contamination of the kitchen. Generally, pork and pork derivative dishes are starred on the menu and another protein substitute is available.²⁷

The staff attributed kosher food shortages to the flux in the Jewish population. Kosher food is expensive and to buy more than needed would be a

waste, they said. Moreover, the food administrator is not always aware of the amount of kosher food on hand. When additional kosher food is needed, a special trip is made to purchase it.

Staff maintains that the institution does not have the authority to start a Muslim kitchen and that to do so would set a precedent.²⁸ Such a precedent would have to come from Bureau headquarters in Washington, they said.²⁹

Administrative Response

In response to allegations by some Muslim inmates that they are not adequately allowed to practice pork-free dietary laws, administrators stated that all menus are posted on boards in the kitchen and that all pork or pork derivative foods are marked by an asterisk.³⁰ In addition, vegetables prepared with pork free derivatives are offered at each meal. Moreover, pork is only served at the noon meal and the food administration instituted a soup and sandwich line as an alternative for those who do not wish to partake of the regular noon meal.³¹

The administration maintained that consultation with Islamic leaders had produced significant disparity with respect to the need for separate food preparation for Islamic inmates. Administrators asserted that most Islamic leaders maintain that the Muslim diet is simply pork free, not kosher as is the Jewish diet, and that it is an oversimplification to compare the two.³² Islamic groups in the Bureau of Prisons are currently taking court action with respect to Muslim dietary laws.³³ Administrators stated that they had made extensive efforts to accommodate Islamic/Muslim fasting and dietary requirements during the Holy Season of Ramadan.³⁴

Concerning the difficulty of maintaining a pork free diet when in segregation, the administration asserted that diet accommodations are made for inmates who choose to observe a pork free diet. Administrators said that approximately one-third of

²² Inmate Interviews Nos. 108 and 109, Lewisburg Penitentiary, January 1981.

²³ James Johnson, Associate Warden for Programs, Interview at Lewisburg, Pennsylvania, May 21, 1981, (hereinafter cited as Johnson Interview).

²⁴ Johnson Interview.

²⁵ Johnson Interview.

²⁶ Johnson Interview.

²⁷ Johnson Interview.

²⁸ Johnson Interview.

²⁹ Johnson Interview.

³⁰ Response to Lewisburg Prison Draft Report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Religious Freedom."

³¹ Ibid.

³² Ibid.

³³ *Khasheem A.A.A. Al Shakir et al. v. Carlson et al.*, No. 80-0033 (M.D. Pa., filed January 10, 1980).

³⁴ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Religious Freedom."

the men in the institution who claim a religious preference claim to be of the Muslim faith.³⁵

With regard to allegations by some Hispanic inmates that there is no bilingual priest to hear confessions and that they were denied the opportunity to celebrate the religious holiday of the Three Wise Men, administrators claimed that there are no bilingual priests in the nearby communities who could provide bilingual religious rites and sacraments for Catholic inmates.³⁶ Administrators assert that they did attempt to obtain the services of a bilingual priest to celebrate the religious holiday of the Three Wise Men, but were unable to do so because of his ministry at the time to the Cuban refugees at Ft. Indiantown Gap, Pennsylvania.³⁷ Efforts to obtain other bilingual priests have been unsuccessful.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

Administrators denied that the staff had ever intentionally contaminated the Jewish kosher kitchen. However, administrators do concede that staff members observe inmates to determine if men authorized to eat kosher food do, in fact, eat from the regular food line.³⁸ To do so is a direct violation of the kosher food policy.

The Lewisburg administration stated that the American Indian population at Lewisburg had dwindled to one. It was their view that construction of a sweat lodge was unnecessary for the current population and that the effort and logistics of building a sweat lodge for Lewisburg's minimal number of American Indians was not feasible. They said that the needs of American Indians could be better served by transferring them to institutions with active American Indian communities.³⁹

³⁸ Ibid.

³⁹ Ibid.

Racial Tension

Introduction

Bureau of Prison policy indicates that there is to be absolutely no discrimination against inmates in any area of prison operations. Administrators take meticulous care to comply with this policy. Nevertheless, inmates at the Lewisburg penitentiary maintain that racial tensions are ever present and often bitter, stemming principally from acts of discrimination and favoritism practiced in most aspects of prison life. This chapter seeks to determine the underlying factors creating and perpetuating such alleged racial tensions at the Lewisburg penitentiary.

Bureau of Prisons Policy

The Bureau of Prisons does not have a lengthy program statement on the subject of racial discrimination. Its program statement on nondiscrimination provides:

Inmates may not be discriminated against on the basis of race, religion, nationality, sex, handicap, or political belief. Each Warden shall ensure that administrative decisions and work, housing, and program assignments are nondiscriminatory.¹

The Bureau further provides that each warden shall review and, as necessary, establish local procedures to assure that inmates are provided essential equality of opportunity in being considered for various

program options, work assignments, and decisions concerning classification status.²

Field Observations

The majority of inmates interviewed felt that some racial tension existed in varying degrees at the Lewisburg Federal Prison. In the words of one inmate "this is a racial joint."³ Generally, most inmates who believed that racial tensions existed felt that the cause for racial tension began with the warden and could be traced down the line to counselors and guards. Inmates cited many examples of what they considered to be acts of racism. Inmates claimed that of approximately 60 correctional officers employed by Lewisburg, only 4 were black and the remaining 56, white. They claimed that of more than 20 shop foremen in prison industries at Lewisburg, not one was a member of any minority group. Some minority inmates claimed that this situation caused them to be unable to obtain promotions in the industry shops at the same rate as white inmates.⁴

Black inmates claimed to have been called "nigger" and "boy" on several occasions by white guards.⁵ Black inmates also claimed that the last 6-9 murders at the prison involved whites killing blacks.⁶ They contended that punishment for institutional infractions differed between black and white inmates and that blacks usually lost good time

¹ 28 C.F.R. §551.90 (1980).

² BOP Program Statement 1040.2, April 1980, Nondiscrimination Toward Inmates, section 3.

³ Inmate Interview No. 17, Lewisburg Penitentiary, January 1981.

⁴ Johnson Interview.

⁵ Johnson Interview.

⁶ Inmate Interviews Nos. 1 and 17, Lewisburg Penitentiary, January 1981.

while white inmates seldom did. Blacks felt that white inmates who were in segregation were brought before the IDC sooner than blacks. Blacks asserted that white inmates have transfer requests approved much faster than they. Blacks also viewed use of the security level classification system as particularly discriminatory against them. They claimed that in determining one's security level, greater weight should be given to the crime committed and less weight to the inmate's prior conduct and previous record.⁷

Hispanic inmates contended that they too were discriminated against by the administration. They claimed that the warden had refused to allow the formation of a Hispanic affairs groups while allowing the formation of other ethnic interest groups. They also objected to being classified as white on prison records.⁸

Inmates claimed that the kitchen staff is racist and that except for the officers mess, which is a privileged area, only blacks and chicanos are assigned there. Inmates alleged that some white inmates belong to the Aryan Brotherhood, a group said to have been organized by the Nazis, while others were members of the Ku Klux Klan.⁹ The assignment of housing units, inmates asserted, was done along racial lines. They even observed that the prison is staffed with many people who are of German ancestry.¹⁰ (Lewisburg is near the area known as Pennsylvania Dutch country.)

American Indians too felt that they were discriminated against in their efforts to practice their tribal religion. They claimed that no other religious group had met with the lack of cooperation which the Lewisburg administration had shown them.¹¹ Generally, however, most inmates felt that discrimination was strongest against blacks and Hispanics.

Several theories were offered as to why discrimination exists. Some inmates felt that guards intentionally pitted one racial group against another and otherwise harassed inmates with the full cooperation

of the administration. Inmates said that this was done in order to maintain the prison as a high level security facility, thereby providing justification for overtime work by guards.¹² Another theory which is somewhat similar is that racial tension is merely the product of controlled confusion and hostility on the part of the guards. One inmate sought to explain the existence of racial tension by attributing its causation to the inmates relative psychosexual pre-environment.¹³ Others felt that because the inmate population had relatively few whites, whites were isolated and defensive toward the majority black population. Finally, several inmates felt that the existence of racial tension was due to inmate gangs.¹⁴

Staff Comments

According to Lewisburg staff, only correctional counselors receive additional training in how to relate to inmates. Other staff, including members of the various unit teams, receive on the job training in how to relate to inmates. However, the Lewisburg administration does not countenance racial bias among its staff members. The uttering of racial slurs by any staff member would result in adverse action against the individual, while the wearing of any racially significant insignia at work would cause the staffer to be "sent home until divested of it."¹⁵ Involvement by staff members in racially prejudiced groups, even outside of the prison, is not condoned. It is the view of Lewisburg administrators that staff members, First Amendment rights of association and expression would "have to take a second seat to what the job's all about."¹⁶

The presence of prison gangs within the Lewisburg prison has increased racial tension. Staff stated that the entire prison system has been affected by prison gangs such as the "Mexican Mafia."¹⁷ These groups, according to staff, originated in California State prisons. When the gangs threatened to overwhelm western prisons, gang members were trans-

⁷ Inmate Interviews Nos. 39 and 42, Lewisburg Penitentiary, January 1981.

⁸ Inmate Interviews Nos. 4, 6, 11 and 34, Lewisburg Penitentiary, January 1981.

⁹ Inmate Interviews Nos. 9 and 44, Lewisburg Penitentiary, January 1981.

¹⁰ Inmate Interviews Nos. 12 and 14, Lewisburg Penitentiary, January 1981.

¹¹ Inmate Interviews Nos. 5, 38, and 34, Lewisburg Penitentiary, January 1981.

¹² Inmate Interview No. 5, Lewisburg Penitentiary, January 1981.

¹³ Inmate Interviews Nos. 108 and 109, Lewisburg Penitentiary, January 1981.

¹⁴ Inmate Interviews Nos. 2, 3, 23, and 44, Lewisburg Penitentiary, January 1981.

¹⁵ Inmate Interview No. 3, Lewisburg Penitentiary, January 1981.

¹⁶ Inmate Interviews Nos. 5, 34, 35, and 38, Lewisburg Penitentiary, January 1981.

¹⁷ Johnson Interview.

ferred elsewhere, including Lewisburg. Staff stated that they were "acutely aware" of the gangs within Lewisburg and that each warden receives his "fair share" of such prisoners.¹⁸ With regard to violence among inmates, staff disclosed that since June 1978 there had been 4-6 murders.¹⁹ According to staff, this downward rate can be attributed to several factors: use of the security level designation system, unit management, and the fact that there are simply fewer inmates who are prone to violence.²⁰

Administrative Response

Lewisburg administrators maintained that of the 166 Correctional Services Department employees, 12 are black (one is a supervisor), 6 are Hispanic (two are supervisors) and one is an American Indian.²¹ While the administration concedes that these figures may appear disproportionate to the inmate population, they cited several factors which gave rise to this situation.²² They said that several minority employees transferred to other facilities for promotions. They also cited the difficulty of recruiting minorities to Lewisburg's rural setting.²³ Administrators also claimed that the inability to recruit skilled minority staff to work in the UNICOR complex accounts for the presence of only one minority shop foreman (a recent transferee from FCI/Lexington) of the total 35.²⁴

Administrators stated that among the last nine fatalities at Lewisburg, dating back to 1976, only two have involved a white inmate killing a black. With regard to differential punishment for black and white inmates committing the same crime and loss of good time, the rate of loss by black and white inmates shows no substantial difference.²⁵ Administrators indicated that the average waiting period for inmates to be brought before the IDC is four days

for all groups. Inmate assertions that use of the security level classification system unfairly discriminates against blacks were denied by the administration who contended that because all races were scored exactly the same, no discrimination existed.²⁶

In response to inmate allegations that groups such as the Aryan Brotherhood and the Ku Klux Klan existed at the facility, administrators conceded that this was true.²⁷ They stated that racial and subversive groups exist inside USP/Lewisburg the same as they do in free society, though the administration at Lewisburg did not approve of such groups.²⁸ These groups were said to include the Aryan Brotherhood, Mexican Mafia, Nazi Party, Black Guerilla Family, Ku Klux Klan, New World Liberation Front, Black September and October Terrorists, Black Revolution Army, and motorcycle gangs.²⁹

Administrators asserted that assignment to work in the food service department, including the officer's mess, are based upon demonstrated good work habits, not racial origin. Currently four white and one black inmate are assigned to the Officer's Mess. Administrators also stated that housing assignments are based primarily upon security considerations, and that the institution attempts to maintain a practical racial balance in all living areas.³⁰ They further contended that while Lewisburg does not have an organizational group specifically designed for Hispanic membership, an awareness of Hispanic needs and interests has been recognized by Lewisburg staff, and programs within existing organizations have been geared toward Hispanic desires. Administrators stated that in the event an organization is proposed that would serve Hispanics' needs and meet policy requirements, such proposal would be given appropriate consideration by the administration.³¹

¹⁸ Johnson Interview.

¹⁹ Johnson Interview.

²⁰ Johnson Interview.

²¹ Response to Lewisburg Prison draft report, submitted by Joseph Petrovsky, Warden, Lewisburg Penitentiary, August 5, 1981, "Racial Tension."

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

Lewisburg Farm Camp

Introduction

The Bureau of Prisons operates 18 camps to house inmates requiring minimum supervision. Of these, seven (including Lewisburg) are satellite camps—camps administratively integrated with a penitentiary or Federal correctional institution.¹ All camps are characterized by no perimeter security, no towers or external control, no detection devices, open housing consisting of single and multiple dorms, and a low staff level.² Although the Lewisburg camp now has an industries unit, it is primarily a farm camp with dairy and crop operations. In addition, it operates a slaughterhouse that processes beef cattle raised at the nearby Allenwood farm camp.³ The Lewisburg camp is situated immediately adjacent to the penitentiary, surrounded by hundreds of acres of farmland.

Generally, inmates at Lewisburg are serving short sentences for nonviolent crimes or have a short period remaining to serve and a good record elsewhere. According to Associate Warden Charles Howe, 5–10 inmates per month are released to the camp from behind the wall.⁴ The total camp population averages 150.

Facilities at the camp include a main building, with dorms, offices, classrooms, a kitchen, and a library; a recreation building; and industries facili-

ties, as well as various agricultural outbuildings. The camp opened in May 1976.

Work

At Lewisburg, the work program overshadows all other aspects of camp life both in time and men involved. Camp inmates work either on the farm camp detail or in industries.

Work on the farm camp detail is divided as follows:

- General Farm
 - Dairy
 - General Farm
- Mechanical Services
 - Garage
 - Landscaping
 - Outside Maintenance
 - Paint Shop
 - Power Plant
- Farm Dorm
- Food Service
 - Abattoir (slaughterhouse)
 - Culinary (kitchen)
- Farm Machinery (small engine repair)
- Education (one clerk)⁵

The industries program includes a UNICOR garment factory and a warehouse. Those working in industries receive UNICOR pay; others receive “performance pay”—a considerably smaller amount.

¹ William Burns, Lewisburg Farm Camp Unit Manager, Interview at Lewisburg, Pennsylvania, May 21, 1981 (hereinafter cited as Burns Interview).

² Inmate Interviews Nos. 77 and 92, Lewisburg Penitentiary, January 1981.

³ Burns Interview.

⁴ Burns Interview.

⁵ BOP Program Statement, 5100.1, July 14, 1980, Security Designation and Custody Classification, section 4.

UNICOR pay ranges from 38c per hour to 95c per hour depending on the inmate's grade for a 40-hour week.⁶ (See Chapter 3.) According to Bureau policy, basic performance pay varies from \$10–25 per month,⁷ depending upon “the level of responsibility of the work assignment and level of program achievement.”⁸

Performance pay is allotted to various administrative units from UNICOR proceeds.⁹ In FY 1981, farm managers received about \$700 to distribute among, in a typical month, approximately 135 inmates.¹⁰ The camp administrator received \$685, and mechanical services received about \$948 per month. At the half-year mark, the manager spent 40 percent of his allotment, the administrator 64 percent, and mechanical services 76 percent.¹¹

Camp inmates report that “you either put in for a job or you're assigned to the dairy.”¹² The dairy is considered undesirable primarily because it operates on a split shift beginning at 5:00 a.m. and ending at 7:00 p.m.¹³ Two inmates reported being assigned work involuntarily.¹⁴ Inmates also report that after an initial assignment, a prisoner may be transferred involuntarily. Four inmates reported dissatisfaction with their job, but said they had no other options.¹⁵

Most work details have a supervisor. The kitchen detail does not, but occasionally a supervisor is “loaned” to the camp kitchen from behind the wall. (The camp administrator noted that “there's always a cook” in the prison population—someone with outside experience.)¹⁶

According to Bureau policy, “Specific standards should be established for work and program participation and these should in turn be communicated to both staff and inmates.”¹⁷ Such standards were available at the camp, although the extent to which they are distributed to inmates could not be ascertained.

⁶ Id., Appendix A.

⁷ Charles Howe, Associate Warden for Operations, Interview in Lewisburg, Pennsylvania, May 21, 1981, (hereinafter cited as Howe Interview).

⁸ Howe Interview.

⁹ Burns, Interview.

¹⁰ Gerald M. Farkas, Operations Memorandum No. 221–80 (8570) re: Revision of Industrial Payroll Regulations, September 4, 1980.

¹¹ BOP Program Statement 5251.1, June 8, 1976, section 7(a).

¹² Id.

¹³ Id., section 4.

¹⁴ R.M. Reish, Case Management Coordinator, Memorandum re: IPP Budget Allocations as of October 1, 1980 (Fiscal 1981), April 3, 1981. The performance pay allotment was increased 9 percent near the end of FY 81, but this did not affect the rate of spending

Generally, performance pay is based on supervisory recommendation. Bureau policy states: “Each institution will determine the relative weight played by work and program progress in its pay plan according to its mission and type of population.”¹⁸ The camp had no separate plan of its own.¹⁹ (Prison staff generally were unaware of such a plan.)

Because of the short time spent at the camp by the average inmate, promotions are not as great a concern as they are behind the wall.

Education

The education and library programs at Lewisburg's camp are extremely limited. The education program is designed by the education department in the penitentiary and administered by an educational representative from that department's staff. The representative operates under the direct supervision of the camp manager while working at the camp. The education department also administers the law library.²⁰

Most of the classes offered at the camp are taught by a contract employee who teaches adult basic education and preparation for the general education diploma (GED) exam. She also speaks and can translate Spanish. (Occasionally, bilingual inmates assist those with limited English ability.)²¹

During the spring 1981 semester, the camp operated a college volunteer program in conjunction with Bucknell University. The volunteers assisted inmates one night a week with any and all subjects—academic and practical.²² Other courses once offered by Williamsport Community College have been virtually eliminated due to a reduction of funds.²³

Occasionally inmates themselves will teach classes, particularly languages. A course in business management was taught by an inmate. Inmates until then (telephone interview with Cindy Brian, December 30, 1981).

¹⁵ Inmate Interview No. 91, Lewisburg Penitentiary, January 1981.

¹⁶ Inmate Interview No. 91, Lewisburg Penitentiary, January 1981.

¹⁷ Inmate Interviews Nos. 77, 72, 73, and 74, Lewisburg Penitentiary, January 1981.

¹⁸ Burns Interview.

¹⁹ BOP Program Statement 5251.1, section 3(b).

²⁰ Id., section 3(c).

²¹ Burns Interview.

²² Burns Interview.

²³ Burns Interview.

complained that such courses were frequently inadequate and offered no recognized academic credits.²⁴

Inmates also stated that the camp offered nothing if they already had a high school diploma.²⁵ Those desiring college work can attempt to transfer to Allenwood camp nearby,²⁶ but such transfers are rarely, if ever, granted. Staff commented that: "Because of the short time spent at the camp by the average inmate, structured college programs are not practical in a financial or validity of program sense."²⁷

The law library is limited compared to the one behind the wall, in accordance with regulations.²⁸ Inmates may request legal materials available in the penitentiary library from the educational representative, who will bring the requested materials to the camp.²⁹ Inmates complained this process was lengthy;³⁰ staff said requests are filled the same day.³¹ Inmates must also rely on staff to copy materials. The fee is 10 cents per page, without a minimum amount.³² Some complained that the typewriters were always broken. In a recent visit, it appeared the machines had just been repaired. Law library hours are 8:00 a.m.-10:00 p.m.³³ The education representative is able to offer only limited assistance to inmates with legal research. Generally inmates rely on one or two "jailhouse lawyers."³⁴ One inmate said that the staff excuse given for the low-level library program was that camp inmates were not imprisoned long enough to pursue a legal remedy.³⁵

The general library, which consists of some bookshelves in a hallway, is accessible days and evenings. A library loan program with Bucknell University was discontinued when too many books went unreturned by inmates.³⁶

Case Management

Case management is the general term referring to the work by staff in assisting inmates with any "rehabilitation" program, such as completing an education degree or job training course, and handling inmate requests for assistance, such as furlough requests or visitor changes. Each inmate has a unit team, consisting of a counselor, caseworker, unit manager, and educational representative.³⁷ The camp as a whole functions as one unit, with slots for two caseworkers (one vacant as of 5/21/81), two counselors, and one unit manager (the senior staff person at the camp). Case management staff are recruited from the ranks of correctional officers.³⁸

Inmates meet with their teams shortly after entering the camp and every 90 days thereafter.³⁹ Complaints from inmates about the quality of case management were extensive. Comments included the observation that "caseworkers are oriented to say no," the caseworker doesn't know his responsibilities, so he does nothing, "there is no case management at the farm; they just shuffle papers."⁴⁰

Apart from the helpfulness or competence of case management staff, one inmate pinpointed an inherent problem when he said, "I can't relax with someone who has so much power over me."⁴¹

Detention

Infractions of the rules at the camp usually result in extra duty. "It's a hassle" to send an inmate to detention,⁴² according to Burns, a unit manager and acting camp administrator. "If at all possible, we try to resolve it here."⁴³ During regular hours, Burns would decide if an inmate should be sent to detention; on weekends, the counselor on duty decides in consultation with the lieutenant behind the wall. Inmates so detained are placed in the same

²⁴ Burns Interview.

²⁵ J.F. Youngman, Education Department, memorandum of all concerned, July 31, 1981 (MARO files).

²⁶ Inmate Interviews Nos. 91, 65, and 66, Lewisburg Penitentiary, January 1981.

²⁷ Inmate Interviews Nos. 92, 89, and 73, Lewisburg Penitentiary, January 1981.

²⁸ Inmate Interviews Nos. 89 and 65, Lewisburg Penitentiary, January 1981. Legal Activities.

²⁹ Youngman Memorandum.

³⁰ BOP Program Statement 1315.3, July 16, 1979, (Attachment 1).

³¹ Burns Interview.

³² Inmate Interviews Nos. 65 and 66, Lewisburg Penitentiary, January 1981; Burns Interview.

³³ Youngman Memorandum.

³⁴ Burns Interview.

³⁵ Youngman Memorandum.

³⁶ Burns Interview.

³⁷ Inmate Interview No. 89, Lewisburg Penitentiary, January 1981.

³⁸ Youngman Memorandum.

³⁹ Burns Interview.

⁴⁰ John O'Connor, Personnel Officer, Interview in Lewisburg, Pennsylvania, May 21, 1981 (hereinafter cited as O'Connor Interview).

⁴¹ Burns Interview.

⁴² Inmate Interviews Nos. 89, 68, and 65, Lewisburg Penitentiary, January 1981.

⁴³ Inmate Interview No. 89, Lewisburg Penitentiary, January 1981.

facilities as inmates from the penitentiary who have much higher security levels.⁴⁴

Most inmate comments regarding detention centered on the administrative detention they experienced upon arrival at Lewisburg. Camp inmates are processed behind the wall, where they are held temporarily in the same facilities that hold other incoming prisoners with higher security levels. Of the 16 inmates interviewed, 5 reported being held in detention 2 days or longer for “processing.”⁴⁵ One was held after a transfer despite a letter from his previous warden urging his placement in the general population and complained of being placed in a cell for 7 days with a prisoner serving 200 years.⁴⁶

Unit manager Burns confirmed that camp inmates report first to the penitentiary. He stated, however, that such inmates would be sent to the camp within hours. Burns was “not aware of anyone staying in administrative detention (ADDT) for any length of time.” If he learned of a camp inmate in ADDT, “I would send someone to get him, if necessary, as soon as possible.”⁴⁷

Factors that might intervene in prompt processing of camp inmates, according to Burns, included arrival of a busload late in the afternoon; arrival of a single inmate very late in the day; a decision by the prison records department that the inmate’s level “looks wrong;” or other bureaucratic complications.⁴⁸

Administrative Remedies

The administrative remedies procedure is available to inmates who wish to appeal a decision of a prison official on a matter that affects them or to resolve complaints about any aspect of prison life (see Chapter 6). The appeal begins with an informal written complaint, a BP-DIR-8 to the appropriate official. If the matter is not resolved to the inmate’s satisfaction, or if the inmate wishes to begin at the second level, he can ask for review by the warden on a BP-DIR-9. Third and fourth level reviews may

be directed to the regional and national offices of the Bureau of Prisons.⁴⁹

Very few camp inmates expressed any faith in the administrative remedy appeals procedure. While one inmate reported he had been very successful with appeals, winning four, he also stated that “you get nowhere,” until the complaint reaches national headquarters.⁵⁰ Another prisoner observed that “if an inmate has a complaint, by the time the paperwork is completed, the problem is no longer an issue.”⁵¹ “The more people you send the forms to, the more alienated you become,” a third inmate insisted.⁵² Another expressed the general belief that if an inmate wins an administrative remedy, “they will get it back from you some other way,” such as removing you from a desired job assignment.⁵³

In general, those interviewed agreed with the inmate who said if he has a problem, he takes care of it himself.⁵⁴

Except for possibly resolving a BP-DIR-8, the camp staff itself has no role in the administrative remedy process.

Furloughs

The furlough policy at Lewisburg was the source of most inmate complaints; indeed, inmates reported that Lewisburg basically does not allow furloughs.

The granting of furloughs is based first and foremost on custody classification. The Bureau maintains four custody levels—maximum, in, out, and community custody. Only the latter two need concern us here, since inmates with maximum or in custody will not be found at camps.

Custody levels are based on the score obtained from rating an inmate on various factors, such as severity of offense, prior commitments, escapes, etc. A BP-14 form, Security Designation, is used for this purpose. According to the Security Designation and Custody Classification Manual,⁵⁵ the system is “designed to place inmates in proper security level institutions and to assure that only the amount of

⁴⁴ Burns Interview.

⁴⁵ Inmate Interviews Nos. 90, 91, 73, 74, and 75, Lewisburg Penitentiary, January 1981.

⁴⁶ Inmate Interview No. 90, Lewisburg Penitentiary, January 1981.

⁴⁷ Burns Interview.

⁴⁸ Burns Interview.

⁴⁹ See 28 C.F.R. s542.12-16 (1980).

⁵⁰ Inmate Interview No. 65, Lewisburg Penitentiary, January 1981.

⁵¹ Inmate Interview No. 77, Lewisburg Penitentiary, January 1981.

⁵² Inmate Interview No. 68, Lewisburg Penitentiary, January 1981.

⁵³ Inmate Interview No. 90, Lewisburg Penitentiary, January 1981.

⁵⁴ Inmate Interview No. 72, Lewisburg Penitentiary, January 1981. Security Designation and Custody Classification.

⁵⁵ See BOP Program Statement 5100.1, February 14, 1979.

supervision necessary is rendered through appropriate custody assignments.”⁵⁶ This theme is repeated throughout the manual: “The guiding principle remains that every inmate should be in the lowest custody level deemed appropriate to adequately supervise the individual.”⁵⁷ Although the system’s intent is flexibility, a newly committed offender who has been designated S-1 will automatically receive an “out” custody level.⁵⁸ At the camp, the offender will be reevaluated at the end of 90 days and every 6 months thereafter. Inmates may request a review every 90 days.⁵⁹

If the security level score changes such that the inmate would fall into a new custody classification, an institutional advisory committee would decide whether to change his custody level. The advisory committee members include the two associate wardens, case management coordinator, director of UNICOR, and various other department heads.⁶⁰

According to the Bureau, an inmate must have community custody to be eligible for a furlough,⁶¹ and present one of the following justifications:

- a. To be present during family crisis, or other urgent situation.
- b. To participate in the development of release plans.
- c. To establish family and community relationships.
- d. To participate in selected educational, social, civic, religious, and recreational activities that will facilitate release transition.
- e. To transfer an inmate directly to another institution, camp, or community treatment center.
- f. To obtain necessary medical/surgical/dental/ psychiatric treatment which is not otherwise available. . . .
- g. To comply with official requests to appear in court, before a grand jury, or to comply with requests from legislative bodies, regulatory or licensing agencies. When the court proceeding is criminal in nature, a furlough will be used only when requested or recommended by the involved court or prosecuting attorney. In civil actions, court approval is not required.⁶²

In addition to an appropriate custody classification, an inmate is eligible for a day pass if 24 months remain on his sentence; a 36-hour pass if 18 months remain; and a 7-day pass if 12 months remain.⁶³ Christmas furloughs are encouraged by the Bureau.

Furloughs must be requested by an inmate through the counselor. The case manager then refers the request to the classification team, composed of the unit manager, case manager, counselor, and educational representative. If the classification team recommends granting the furlough, the paperwork is begun. The team contacts the person being visited. The probation officer assigned to the inmate in the community where he will be released is notified and may register his objections. If no objections are apparent from outside officials, the inmate’s request is sent to the warden. The warden may disapprove the furlough at this point.⁶⁴

An analysis of prisoners on furlough status every 4th week between August 19, 1980, and May 26, 1981, reveals that an average of 0.32 prisoners were away from Lewisburg camp on furlough at any one time. When all level 1 camps were ranked each sample week, Lewisburg had the least number of furloughs of any camp 7 out of 10 times. Only two other camps matched this record, Marion and La Tuna. Of the 16 camps in the sample, the vast majority ranked above the median in furloughs granted; that is, most camps awarded furloughs far more often than did Lewisburg.⁶⁵ Of the two camps that equaled Lewisburg’s record, one (Marion) is associated with a Level 6 penitentiary, and the other (La Tuna) is populated by Mexican nationals,⁶⁶ presumably not reliable candidates for furloughs since they might not be expected to return.

Inmates expressed the view that Christmas furloughs are the only ones granted by Lewisburg, and then under pressure from the Bureau of Prisons. They say there are no day or 36-hour furloughs. They complained of furlough abuses by staff, citing an occasion when prisoners being taken to the Lewisburg bus station missed the bus because the

⁵⁶ Id., section 1.

⁵⁷ Ibid., section 10.

⁵⁸ Burns Interview.

⁵⁹ Burns Interview.

⁶⁰ Burns Interview.

⁶¹ BOP Program Statement 5280.1, May 26, 1978, Furloughs, section 7.

⁶² Id., section 9.

⁶³ Id., section 5.

⁶⁴ Burns Interview.

⁶⁵ U.S. Commission on Civil Rights staff analysis of statistics published in Monday Morning Highlights, weekly newsletter (U.S. Department of Justice, Federal Prison System), August 25, 1980, through June 1, 1981.

⁶⁶ U.S. Department of Justice, Federal Prison Systems, Facilities 1980, pp. 53 and 43.

staff was late and had to wait all day for the next bus, wasting a day of their furlough.⁶⁷

Several said that furloughs were always denied at Lewisburg; that there was no consistency between camps regarding furlough policy; that informants were treated “royally,” and that “white collar” offenders were told their furlough requests would be rejected.⁶⁸

Limitations on furlough eligibility for those whose request does meet the criteria outlined above are as follows:

Inmates convicted of serious crimes against persons and whose presence in the community could attract undue public attention, create unusual concern, or depreciate seriousness of the offense, ordinarily will not be approved.⁶⁹

Prison staff stated that a furlough denied because of the serious crime limitation may be based on drug ring involvement, an ongoing investigation, problems with a codefendant, etc. Bureau guidance on this point was characterized as “adequate” by staff.⁷⁰

If a furlough is denied based upon information contained in a presentence report, only a written correction from the probation officer would suffice to change the denial. An independent investigation of the presentence report is not required, as it would be if the inmate were applying for parole. Staff said that “what the parole board does wouldn’t have any bearing on what we do,” but if the camp has knowledge of the parole board’s findings, they would be taken into account.⁷¹

In discussing furlough policy, Associate Warden Charles Howe stated that no day furloughs are granted except to allow an inmate to travel to a Community Treatment Center (prerelease program) or possibly to participate in a religious program. A

strict furlough policy is adhered to, according to Howe, because “the camp is basically here to sustain this institution” and the number of camp inmates is already inadequate to perform the needed work.⁷²

Racial Tension

Several inmates felt there was no racial tension at the camp,⁷³ but the majority cited a variety of problems.

One ascribed any existing tensions to the judicial system, noting that nearly all black inmates were sentenced by whites.⁷⁴ Another said tensions resulted from whites feeling threatened because they were in the minority for the first time in their lives.⁷⁵

Two inmates believed that furloughs were awarded on a discriminatory basis.⁷⁶ Prison officials pointed out that of total furloughs granted in 1980 (other than to community treatment centers), 69.9 percent were granted to whites; 22.2 percent to blacks; and 7.9 percent to Hispanics. From January 1 through July 30, 1981, whites received 65.2 percent of the non-CTC furloughs, blacks received 21.7 percent, and Hispanics 13.1 percent, approximately the same as the overall racial breakdown, according to Lewisburg officials.⁷⁷

Racial tension between staff and inmates and among inmates caused by staff was noted by three inmates.⁷⁸ An inmate noted that blacks did not drive trucks and that only one black was on the fire squad.⁷⁹ According to officials, the fire squad of eight inmates is half black.⁸⁰ The mix of people of widely different backgrounds causes tension, according to one inmate.⁸¹ Finally, an inmate noted that camp assignments themselves are discriminatory; that blacks are not assigned to camps as a rule, especially by judges.⁸²

⁶⁷ Inmate Interviews Nos. 90, 91, and 89, Lewisburg Penitentiary, January 1981.

⁶⁸ Inmate Interviews Nos. 66, 67, 89, 77, 72, 90, 73, 65, and 74, Lewisburg Penitentiary, January 1981.

⁶⁹ BOP Program Statement 5280.1, May 26, 1978, section 8.

⁷⁰ Burns Interview.

⁷¹ Burns Interview.

⁷² Howe Interview.

⁷³ Inmate Interviews Nos. 91, 77, 72, 73, 69, and 70, Lewisburg Penitentiary, January 1981.

⁷⁴ Inmate Interview No. 92, Lewisburg Penitentiary, January 1981.

⁷⁵ Inmate Interview No. 89, Lewisburg Penitentiary, January 1981.

⁷⁶ Inmate Interviews Nos. 89 and 64, Lewisburg Penitentiary, January 1981.

⁷⁷ F.H. Bartholomew, Correctional Counselor, memorandum to C.J. Haugh, Associate Warden, July 31, 1981 (MARO files).

⁷⁸ Inmate Interviews Nos. 88, 65, and 71, Lewisburg Penitentiary, January 1981.

⁷⁹ Inmate Interview No. 71, Lewisburg Penitentiary, January 1981.

⁸⁰ Bartholomew Memorandum.

⁸¹ Inmate Interview No. 71, Lewisburg Penitentiary, January 1981.

⁸² Inmate Interview No. 90, Lewisburg Penitentiary, January 1981.

Findings and Recommendations

The following findings and recommendations are submitted under the provision of Section 703.2(e) of the Commission's Regulations empowering the Advisory Committees to "Initiate and forward advice and recommendations to the Commission upon matters which the State Committee has studied."

Chapter 1

Finding 1:1 Delegation of authority among unit team staff contributes significantly to inmate perceptions of "buck-passing" and unresponsiveness.

Recommendation 1:1 In addition to the current practice of advising inmates verbally as to the responsibility of various unit team members, inmates should be presented a responsibility sheet which clearly delineates the areas of responsibility for each member of the unit management team. In order to be most useful, this sheet should be presented during the inmate's admission and orientation period.

Finding 1:2 Hispanic inmates who are not fluent in English assert that they have difficulty in participating meaningfully in classification meetings.

Recommendation 1:2 Hispanic inmates who are not fluent in English should have access to an interpreter during classification meetings to facilitate the inmate's meaningful participation in such meetings.

Chapter 2

Finding 2:1 The decision as to whether an inmate will be seen by an M.D. for further evaluation or treatment after seeing the physician's assistant rests solely with the physician's assistant.

Recommendation 2:1 In cases of serious illness, inmates should be granted the absolute right to see a physician notwithstanding prior examination and diagnosis by the physician's assistant.

Finding 2:2 No member of Lewisburg's medical staff is bilingual in English/Spanish. Thus, Hispanic inmates who are not fluent in English may experience difficulty in explaining their symptoms and otherwise assisting the physician's assistant in diagnosing their illness.

Recommendation 2:2 The medical staff at Lewisburg should have at least one bilingual (English/Spanish) employee available to assist in diagnosis and treatment of Lewisburg's non-English speaking Hispanic population.

Finding 2:3 Recommendations by outside physicians (non-Bureau) as to treatment are followed only when the Bureau's doctors at Springfield, Missouri, believe necessary.

Recommendation 2:3 Greater consideration should be given to recommendations by non-Bureau of Prisons' physicians concerning patient treatment and followup. Decisions regarding followup on such recommendations should be fully explained to inmates.

Chapter 3

Finding 3:1 Only one of 35 shop foremen employed by Lewisburg's UNICOR facility is a member of an ethnic minority group. Because promotions in UNICOR are based upon recommendations of shop foremen, the failure to provide adequate minority representation is viewed by minority inmates as an

impediment to gaining promotions and is a source of racial tension.

Recommendation 3:1 Lewisburg's UNICOR facility should make every attempt to increase the number of minority shop foremen to a level which approximates the minority makeup of the general inmate population.

Finding 3:2 Within Lewisburg's UNICOR facility, the employment of white to minority inmates at the lowest pay level is 1 white inmate for every 7.1 minority inmates. However, at the highest pay level, there is 1 white inmate for every 1.9 minority inmates. The difficulty experienced by minority inmates and the relative ease with which white inmates gain promotion generates a great deal of tension between minority and white inmates and is a major cause of racial tension.

Recommendation 3:2 Minority inmates at Lewisburg's UNICOR facility must be afforded an equal opportunity to gain promotions, particularly to the higher paying level 1 positions.

Chapter 4

Finding 4:1 Budget restrictions have caused cancellation of all college courses except occupationally-required college courses offered in conjunction with vocational programs. In view of budget limitations, greater effort must be made by Lewisburg administrators to enlist the cooperation and support of nearby colleges in providing personnel, books, etc., to establish a meaningful program of post-secondary educational electives.

Finding 4:2 The absence of bilingual instructors limits participation by non-English speaking inmates in educational programs.

Recommendation 4:2 Lewisburg administrators should undertake the recruitment of a bilingual (English/Spanish) instructor for its education program.

Chapter 5

Finding 5:1 The main law library at the Lewisburg penitentiary is both too small and too noisy to accommodate inmate needs.

Recommendation 5:1 Administrators should consider expanding the current main law library. This might be accomplished by expanding into one of the adjoining classrooms, which, because of cuts in the education budget, might be available for conversion. Such an arrangement would also allow for typewrit-

ers to be used in other than the main research areas, thereby substantially reducing the noise level.

Finding 5:2 While the cost for copying is \$0.10 per page, inmates must submit a minimum of \$1.00 worth of copying to have their requests processed.

Recommendation 5:2 Inmates should be permitted to make joint requests for xeroxing which, when aggregated, will satisfy the minimum amount required for processing. Such a practice will eliminate the burden of copying \$1.00 worth of material when only \$0.10 worth is required and will diminish the number of requests which must be processed since only needed material will be copied. This will free up more staff time to do other jobs.

Finding 5:3 There are no Hispanic reading materials in the main law library.

Recommendation 5:3 All legal materials required for Bureau of Prisons' main law libraries should be equally accessible to Lewisburg's Hispanic inmates.

Chapter 6

Finding 6:1 The procedures for ensuring compliance with the BOP policy of informal resolution of complaints does not appear to inmates to be uniformly applied. Inmates feel it is a new procedure that creates an added burden to utilizing the process of administrative remedies. Moreover, since the BP-9 can be obtained without ever filing an informal resolution form, its value as an indicator of compliance with national policy is not without problems.

Recommendation 6:1 In view of the resentment by inmates, confusion between staff and administrators, and the discretionary authority granted the warden concerning use of the local form, BP-8, the procedure should be discontinued.

Recommendation 6:4 Use of the BP-8 should be discontinued.

Chapter 7

The findings for this chapter indicate no deviation from either Bureau of Prisons' policy or current law, therefore no recommendations are suggested. (Furloughs at the Lewisburg Farm Camp are covered in Chapter 9.)

Chapter 8

Finding 8:1 While the practice of changing an inmate's shot may at times be necessary to reflect more accurately the charges against him, such action is seen by the inmate as unfair to his defense and is a source of tension.

Recommendation 8:1 Inmates should be given notice and an explanation for any changes made in the charges against them from the time when they are verbally informed of the charges to the point when they receive formal written notice of the charge.

Finding 8:2 Inmate perceptions that incident reports are not investigated often breeds contempt for the disciplinary process and causes tension between inmates and staff.

Recommendation 8:2 Investigation of incident reports should be clearly identified as such and inmates should routinely receive a report of the investigation, including any findings.

Finding 8:3 Overcrowding in the special housing unit is a regular occurrence often precipitated by an influx of transient inmates enroute to other FCI facilities.

Recommendation 8:3 Inmates assigned to the special housing unit should be placed in cells adequate to accommodate their number. In circumstances where overcrowding occurs, inmates previously assigned to the special housing unit should be returned temporarily to cells in the general population unless more secure housing is available.

Chapter 9

Finding 9:1 American Indians at Lewisburg Penitentiary are denied the full opportunity to practice their religious beliefs.

Recommendation 9:1 American Indians at Lewisburg should be afforded the same opportunity to practice their religious beliefs as are afforded other inmates.

Finding 9:2 There are no bilingual priests to hear confessions of Hispanic inmates or to conduct special religious ceremonies.

Recommendation 9:2 Administrators should undertake efforts to obtain the regular services of a bilingual priest to hear confessions of Hispanic inmates who are not fluent in English. The priest would also be able to celebrate special religious holidays.

Chapter 10

Finding 10:1 Some racial tension does exist at the Lewisburg penitentiary. One of the causes of racial tension may be due to the almost all-white and rural character of staff in an institution where approximately 68 percent of the inmates are racial or ethnic minorities from large urban areas.

a) Only 19 of Lewisburg's 166 correctional services employees are minorities—12 are black, 6 are Hispanic, and one is Native American.

b) Of the 35 shop foremen employed by Lewisburg's UNICOR facility, only 1 is a minority.

Recommendation 10:1 The number of minority employees among Lewisburg's correctional services personnel must be increased significantly in order to produce a workforce which is more representative of the inmate population. (See also recommendation 3:1 regarding minority shop foremen.)

Finding 10:2 The existence of prison gangs within Lewisburg is another source of racial tension.

Recommendation 10:2 To the extent possible prison gangs should be discouraged, their activities closely scrutinized, and where appropriate, disbanded.

Finding 10:3 There is no organizations at the Lewisburg penitentiary ostensibly designed to address the concerns of Hispanic inmates.

Recommendation 10:3 Administrators should facilitate the formation of organizations geared toward addressing problems and concerns peculiar to Hispanic inmates to the same extent that administrators have assisted in the formation of other ethnic organizations.

Chapter 11

Finding 11:1 The education and library programs at the farm camp are extremely limited.

Recommendation 11:1 Inmates serving enough time to pursue higher education should be assigned to a camp where appropriate courses are available. Lewisburg and Allenwood should make arrangements to allow for such assignments. The general library collection should be expanded.

Finding 11:2 Inmates regard the case management staff as unhelpful, at best.

Recommendation 11:2 To minimize misunderstanding, case manager and case worker duties and limitations should be outlined in writing to inmates. Staff promoted into case management positions should be selected based upon their ability to relate to inmates as well as their ability to handle necessary administrative chores.

Finding 11:3 The time spent in administrative detention upon arrival at Lewisburg varies based upon operation of the record office.

Recommendation 11:3 Arriving camp inmates should be processed within time limits that meet particular standards. They should be segregated

within detention from inmates destined to remain behind the wall.

Finding 11:4 Inmates have little faith in the administrative remedy process. At the institutional level, complaints are handled by the penitentiary staff and not the camp staff.

Recommendation 11:4 The administrative remedy procedure at the camp should be revised to require participation of the camp unit manager along with the warden when BP-9s are considered.

Finding 11:5 Furloughs are unduly restricted at Lewisburg, in violation of Bureau policy.

Recommendation 11:5 BOP policy regarding the availability of furloughs should be implemented immediately. (Since this report was written, Lewisburg reports that day furloughs for family visits are now permitted.)

Finding 11:6 Racial tension is a factor at the camp, but it is not disproportionately worse than such tension in society at large.

Recommendation 11:6 Camp staff must remain alert to the problem of racial tension, especially as hate group activity increases on the outside.

Appendix I

A review by the U.S. Department of Justice's Federal Prison System of the Lewisburg Prison report, *Doing Time*, resulted in the disclosure of additional substantive information relative to the subject of this report which was not previously available. Therefore, in fairness to the Bureau of Prisons and as a service to the public such additional information is presented below.

Chapter 1 Medical & Health Services p. 32

Clinical visits after regular hours are handled exclusively by the physician's assistants unless there is need for a physician. At least one physician is on call after regular hours. During fiscal 1981, 1,955 clinical visits were made after regular hours. Of this number, 1,934 were handled by physician's assistants and 21 by a physician.

Chapter 3 Work Assignment p. 45

The practice of mandatory assignment to industries (UNICOR) has been discontinued and a waiting list established. Inmates are hired in accordance with their position on the list except in some high skill positions in which general laborers may be bypassed and preference given to skilled workers.

Chapter 3 Work Assignment p. 50

As of April 1982 the total number of inmates assigned to prison industries at Lewisburg peniten-

tiary had increased from 402 to 464. While the new format in which this information was reported did not allow for a comparison between pay levels for black and white inmates, some comparison was still possible. The ratio of whites to all minorities was, as of April 1982, 1 to 3 in all but the highest pay grade where the ratio of whites to minorities remained disproportionately high at 1 to 2. Whites comprise one fourth of the industries work force yet hold one half of the highest paying jobs.

Chapter 4 Education and Training p. 57

The Education Department can and does recommend extra good time upon the successful completion of an educational or vocational training program. Such a recommendation is subject to approval by the Unit Classification Team, whose approval is usually given.

Chapter 5 Law Library p. 68

The Education Department is in the process of developing a resource library. In this regard, books in Spanish have been ordered and received and additional sources are being sought for obtaining bilingual books. The resource library is scheduled to open during fiscal 1982.

Appendix II

Attachment 1

BP-Med-17 Appendix 2 Attachment 1
 January 1978
 Page 1 of 4

6000.2
 Attachment 6000-II
 Page 3
 May 18, 1981

PHYSICIAN'S ASSISTANT PRIVILEGES STATEMENT

NAME OF P.A.	INSTITUTION	Order		Perform	
		Yes	No	Yes	No
GENERAL CLINICAL CARE					
Perform & record complete medical history & physical exam, including in-patient admission	Review & counter-signature of physician				
Examine, prescribe & treat patients presenting on sick call	Within limits of authorized privileges				
Indicate diagnostic impression					
PARENTERAL THERAPY					
Prescribe & perform venipuncture to obtain blood specimen					
Prescribe & perform venipuncture to start IV therapy including blood & blood products	Prescribe - in emergencies ONLY				
TEST & SPECIAL EXAMINATIONS					
Prescribe & perform lab, ECG, & x-ray procedures done in this institution except those requiring injection of radiopaque material					
PHYSICAL THERAPY					
Prescribe, perform & supervise all PT modalities available here					
DENTAL					
Extractions	Assist dentist ONLY		X		
Fractures	Assist dentist ONLY		X		
Dislocations					
Infections & abscess					
Post op hemorrhage					
Pain					
Temporary Fillings					
SURGICAL PROCEDURES					
Close fascia & skin during surgery	Under MD supervision				
Close minor lacerations if no nerve, tendon, or artery involvement					
Minor surgical procedures such as I&D abscess (culture spec. to lab)					
Removal/repair ingrown toenail (all tissue specimen to lab)	After MD consultation				
Examine, prescribe, & treat patient during a medical/surgical emergency until MD arrives	Life & death or severe injury				
Administer topical, local & simple digit nerve block anesthetics					
Admit patients to appropriate service unit	During absence of MD				
Order orthopedic braces & appliances at request of primary physician					

PHYSICIAN'S ASSISTANT PRIVILEGES STATEMENT

NAME OF P.A.	INSTITUTION				
	Special Limitations	Order		Perform	
		Yes	No	Yes	No
TYPE OF CARE					
Countersign written orders for P.A. trainees as individually privileged					
Females-Breast, full pelvic and rectal exam					
OTHER (specify and/or draw through unused lines)					

PHYSICIAN'S ASSISTANT PRIVILEGES STATEMENT

NAME OF P.A.	INSTITUTION			
MEDICATIONS (specify limitations, if any)	May Order		May Reorder	
	Yes	No	Yes	No
CONTROLLED DRUGS (all require at least countersignature by M.D.)				
II Codeine Merperidine Methadone - for pain only (not detoxification)				
III Codeine (32 mg) with Acetylsalicylic acid (ASA or APC) Paregoric				
IV Chloral Hydrate Chlordiazepoxide (Librium): x 3 days Diazepam (Valium): x 3 days Meprobamate Nalorphine: in emergency only while awaiting MD Paraldehyde (oral & inj.) Phenobarbital Phenobarbital with Belladonna alkaloids				
V Lomotil				
PSYCHOTROPIC MEDICATION				
Amitriptyline (Elavil)				
Chlorpromazine (Thorazine) to acutely ill patients only				
Doxepin (Sinequan)				
Fluphenazine HCl (Prolixin) Inj. & oral				
Haloperidol (Haldol)				
Oxazepam (Serax)				
Perphenazine (Trilafon)				
Prochlorperazine (Compazine)				
Promethazine (Phenergan)				
Thioridazine (Mellaril) (x 3 days)				
Trifluoperazine (Stelazine)				
SPECIAL OR DANGEROUS DRUGS				
Anticoagulants				
Antibiotics				
Corticosteroids				
Digitalis Glycosides				
Insulin				
Saccharin				
Oral Hypoglycemics: Tolbutamide (Orinase) Chlorpropamide (Diabinese)				
Anticonvulsant Medications: Primidone (Mysoline) Diphenylhydantoin (Dilantin)				
Antihypertensive Medications: Chlorthiazide & Hydrochlorthiazide (Diuril & Hydrodiuril) Spironolactone (Aldactone) Furosemide (Lasix) Clofibrate (Atromid-S)				

PHYSICIAN'S ASSISTANT PRIVILEGES STATEMENT

NAME OF P.A.		INSTITUTION			
MEDICATIONS (specify limitations, if any)		May Order		May Reorder	
		Yes	No	Yes	No
SPECIAL OR DANGEROUS DRUGS (con't)					
Antihypertensive Medications (con't):					
Methyldopa (Aldomet)					
Guanethidine (Ismelin)					
Reserpine					
Phenoxybenzamine (Dibenzyline)					
Propranolol (Inderal)					
Hydralazine (Apresoline)					
Trimethaphan Camsylate (Arfonad)					
Anti-inflammatories/Anti-Arthritic/Anti-Gout:					
Colchicine					
Phenylbutazone (Butazolidin)					
Indomethacin (Indocin)					
OTHER					
(Specify and/or draw through unused lines)					
May prescribe all other formulary medication					
CERTIFIED BY: Dentist		DATE:	CERTIFIED BY: Psychiatrist		DATE:
CERTIFIED BY: HAO		DATE:	CERTIFIED BY: CHP		DATE:

Attachment 2

Appendix 2

Attachment 2

1315.3
Attachment J
Page 1 CN-1
December 4, 1981

A. "Basic" Law Library Materials.

1. Reporter: "Decisions of the United States Supreme Court" (summaries of decisions) - All volumes.

2. Statutes:

(a) United States Code Annotated.

(1) Title 5, Sections 1-5100 (includes Freedom of Information and Privacy Acts).

(2) Title 18 - Complete (Criminal Code and Criminal Procedures).

(3) Title 21 - Complete (Food and Drugs).

(4) Title 26, Sections 4001 to End (Narcotic Offenses).

(5) Title 28 - Volumes containing Rules of the Supreme Court of the United States; United States Court of Appeals Rules and Federal Rules of Appellate Procedure.

(6) Title 28, Sections 2241 to End (Habeas Corpus and Motions to Vacate Sentence).

(7) Title 42, Sections 1891-2010 (Public Health and Welfare).

(8) U.S. Constitution and Amendments (Complete).

(b) Federal Rules of Civil Procedure (Pamphlet).

3. Regulations: Title 28, Code of Federal Regulations; Judicial Administration.

4. Program Statements - Current Bureau of Prisons Program Statements which contain rules codified in Title 28, Code of Federal Regulations.

5. Other Materials:

(a) Black's Law Dictionary.

(b) Complete Manual of Criminal Forms, Bailey and Rothblatt.

(c) Criminal Law Reporter, current subscription.

(d) Modern Criminal Procedure, Hall and Kamisar.

(e) Constitutional Rights of Prisoners, Palmer.

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Attachment 1
Page 2 CN-1
December 4, 1981

- (f) Federal Habeas Corpus, Sokol.
- (g) You and the Law, Reader's Digest.
- (h) Legal Research in a Nutshell, Cohen.
- (i) Legal Research, Writing and Analysis, West Publishing Company.
- (j) Corrections and Prisoners' Rights, Krantz.
- (k) Manual for Prison Law Libraries, Werner.
- (l) Modern Federal Practice Digest, Volumes 16-18A, 26, 26A, 39, and 42.
- (m) Manual for Courts Martial, U.S. Government Printing Office.
- (n) Justice and the Military, Public Law Education Institute (out of print - keep current copies).
- (o) Rights of the Imprisoned, Singer.
- (p) Practice Manual on Military Discharge Upgrading, American Civil Liberties Union.
- (q) Prisoners' Assistance Directory, The National Prison Project.
- (r) Criminal Procedure in a Nutshell, Israel and LaFave.

"Basic" law libraries are contained or are being established in the following units: (1) Segregation Unit, U.S. Penitentiary, Atlanta, Ga; (2) Segregation Unit, U.S. Penitentiary, Leavenworth, Kansas; (3) Camp Unit, U.S. Penitentiary, Leavenworth, Kansas; (4) Segregation Unit, U.S. Penitentiary, Lewisburg, Pa.; (5) Camp Unit, U.S. Penitentiary, Lewisburg, Pa.; (6) H Unit, U.S. Penitentiary, Marion, Ill.; (7) I Unit, U.S. Penitentiary, Marion, Ill.; (8) Camp Unit, U.S. Penitentiary, Marion, Ill.; (9) Segregation Unit, U.S. Penitentiary, Terre Haute, Ind.; (10) Camp Unit, U.S. Penitentiary, Terre Haute, Ind.; (11) Camp Unit, U.S. Penitentiary, Lompoc, Cal.; (12) Segregation Unit, U.S. Penitentiary, Lompoc, Cal.; (13) Segregation Unit, Federal Correctional Institution, El Reno, Oklahoma; (14) Segregation Unit, Federal Correctional Institution, Milan, Mich.; (15) Camp Unit, Federal Correctional Institution, Petersburg, Va.; (16) Control Complex, Federal Correctional Institution, Petersburg, Virginia; (17) Ten Building Unit, U.S. Medical Center for Federal Prisoners, Springfield, Missouri; (18) Camp Unit, Federal Correctional Institution, La Tuna, Texas; (19) Eleven West Unit, Metropolitan Correctional Center, Chicago, Illinois; (20) Control Unit, Federal Correctional Institution, Alderson, West Virginia; (21) Special Housing Unit, Federal Correctional Institution, Otisville, New York; (22) Administrative Detention Housing Unit, Federal Correctional Institution, Otisville, New York; (23) Female Psychiatric Unit, Federal Correctional Institution, Lexington, Kentucky.

B. "Main" Law Library Materials.

1. All "Basic" law library materials;

2. Reporters:

(a) United States Supreme Court Reports (Lawyers' Edition 2d Series), Volumes 4-26, 37-present.

(b) Supreme Court Reporter, Volumes 91-93A.

(c) Federal Reporter, 2d Series, Volumes 267-present.

(d) Federal Supplement, Volumes 173-present.

3. Statutes:

(a) United States Code Annotated (Complete).

(b) District of Columbia Code Annotated (Complete).

4. Other Materials:

(a) American Jurisprudence 2d (Complete).

(b) Shepard's United States and Federal Citations.

(c) Ballentine's Law Dictionary.

(d) United States Supreme Court Digest Annotated (Complete).

Attachment 3

The following is a summary of the guidelines the administration follows in meeting religious needs of Native American inmates at Lewisburg:

1. The Native American Community at the U.S. Penitentiary will be allowed to meet at designated times and places as authorized and determined by the institution Chaplain's office and/or other administrative authority.

2. A ceremonial drum will be authorized for use by the Native Americans during their meetings, ceremonies, or other spiritual gatherings.

3. A ceremonial peace pipe will be authorized for use by the Native American Community during their meetings, ceremonies, or other spiritual gatherings.

4. The Native American Community will be allowed to retain appropriate ceremonial, dress to be used during their meetings, ceremonies, or other spiritual gatherings.

5. A reasonable number of feathers will be allowed to be retained by the inmate and/or the Native American Community only within the confines of the institution chapel for use during meetings, ceremonies, or other spiritual gatherings.

6. Medicine pouches will only be allowed to be used in the chapel during meetings, ceremonies, or other spiritual gatherings.

7. Native Americans will be allowed to work on any Native American hobby craft in Arts and Crafts if it is authorized by either the Arts and Crafts

Department or by the Chaplain's office in consultation with Arts and Crafts.

8. The Native Americans at Lewisburg will have the services of a Medicine Man and/or like spiritual advisor whenever practical and able to be scheduled.

9. Native Americans will be allowed to work on bead work in their respective living quarters.

10. All Native Americans will be authorized to wear headbands that are to either be purchased from an outside source or donated by an outside source.

11. Native American "sweet grass" will be allowed to be used by the Native Americans at their spiritual ceremonies.

12. The Native Americans at Lewisburg will be allowed a proportionate amount of the Chaplain's budget to purchase books, tapes, or other material deemed necessary to facilitate the exercise of their beliefs.

13. The Native Americans at Lewisburg will be allowed to have periodic appropriate meetings, ceremonies or other spiritual gatherings with outside guests in attendance.

14. The Native American Community will be authorized to have one ceremonial gathering a year which will include food. This shall be in observance of a spiritual significant event in the Native American spiritual life.

15. Representatives of Native American groups visit the institution periodically to meet and minister to the Native Americans incarcerated.

Attachment 4

APPENDIX II

ATTACHMENT No. 5

INDUSTRIES AND LOCATIONS

AUTOMOTIVE REPAIR

FCI, Petersburg, Virginia
FCI, Tallahassee, Florida

BASKETS

FCI, Milan, Michigan

BROOMS

FCI, El Reno, Oklahoma

BRUSHES

FCI, La Tuna, Texas
USP, Leavenworth, Kansas

CANVAS GOODS

USP, Atlanta, Georgia
FCI, Butner, North Carolina
FCI, Lexington, Kentucky
USP, Terre Haute, Indiana

CLOTHING and GARMENT SHOPS

FCI, Alderson, West Virginia
FCI, Butner, North Carolina
USP, Lewisburg, Pennsylvania

DAIRY

FCI, La Tuna, Texas

DATA PROCESSING

(Keypench)

FCI, Alderson, West Virginia
FCI, Englewood, Colorado
FCI, Fort Worth, Texas
USP, Leavenworth, Kansas
FCI, Lexington, Kentucky
FCI, Milan, Michigan
FCI, Pleasanton, California

DIES, TOOLS and MACHINING

FCI, Danbury, Connecticut
FCI, El Reno, Oklahoma

DRAFTING SERVICES

USP, Lewisburg, Pennsylvania
FCI, Oxford, Wisconsin

ELECTRONIC SHOPS

FCI, Big Springs, Texas
FCI Danbury, Connecticut
FCI, Lexington, Kentucky
FCI, Lompoc, California
USP, McNeil Island, Washington
FCI, Memphis, Tennessee
FCI, Miami, Florida
FCI, Oxford, Wisconsin
FCI, Petersburg, Virginia

FURNITURE, WOOD and UPHOLSTERED

FPC, Allenwood, Pennsylvania
FCI, Ashland, Kentucky
FCI, Bastrop, Texas
USP, Leavenworth, Kansas
FCI, Lompoc, California
FCI, Pleasanton, California
FCI, Talladega, Alabama
FCI, Tallahassee, Florida
FCI, Terminal Island, California
USP, Terre Haute, Indiana
FCI, Texarkana, Texas

FURNITURE, METAL

(Equipment and Specialties)

USP, Lewisburg, Pennsylvania
USP, Marion, Illinois
FCI, Milan, Michigan
FCI, Terminal Island, California
USP, Terre Haute, Indiana

FURNITURE REHABILITATION

FCI, La Tuna, Texas
FCI, Seagoville, Texas

GLOVES

FCI, Danbury, Connecticut
FPC, Safford, Arizona
FCI, Sandstone, Minnesota

MATTRESSES

USP, Atlanta, Georgia

PLASTIC PRODUCTS

FCI, Oxford, Wisconsin
USP, Terre Haute, Indiana

PRINT SHOPS

FCI, Fort Worth, Texas
FCI, Lexington, Kentucky
FCI, Lompoc, California
USP, Marion, Illinois
FCI, Sandstone, Minnesota

SHOES

USP, Leavenworth, Kansas

SIGNS, METAL, WOOD and PLASTIC

USP, Atlanta, Georgia
FCI, Fort Worth, Texas
FCI, Lompoc, California

TEXTILES, COTTON

USP, Atlanta, Georgia
USP, Terre Haute, Indiana
(Towels, Toweling)

TEXTILES, WOOLEN

USP, Terre Haute, Indiana

TIRE RECONDITIONING

FCI, Petersburg, Virginia

FCI—Federal Correctional Institution
FPC—Federal Prison Camp
USP—U.S. Penitentiary

Attachment 5

APPENDIX II

ATTACHMENT No. 4

5100.1 CN-2
July 14, 1980

FACILITY SECURITY LEVEL CRITERIA

LEVEL OF SECURITY

SECURITY FACTOR	1	2	3	4	5	6
Perimeter	None	One Fence or Bldg. Facade	Double Fence	Double Fence or Single & Other	Double Fence or Wall	Double Fence or Wall
Towers	None or Not Manned	May have Towers but Manned Less than 24 hours	May have Towers but Manned Less than 24 hours	Yes -- Manned Full and Part Time	Manned 24 Hours	Manned 24 hours
and/or External Patrol	No	No	Yes	Yes	and/or Yes	Yes
Detection Devices	No	No	Yes	Yes	Yes	Yes
Housing	Open	Open to Medium	Medium	Secure	Secure	Secure
Cells	Single & Multiple Dorms	Single & Multiple Dorms	Single & Multiple Dorms	Single & Multiple Dorms	Single & Multiple Dorms	All Single Rooms
Level of Staffing per Population Size	Low	Low	Low to Medium	Low to Medium	Low to High	High

Attachment 6

APPENDIX II

ATTACHMENT No. 6
EDUCATION AND TRAINING COURSES

ABE -- Adult Basic Education (0 - 6)

ASE -- Adult Secondary Education (7 - 12)

CDL -- Dental Technology

AHI -- Heating and Air-Conditioning

Mini-Computer Programmer

BAT -- Mechanical Drafter

Tool & Die Designer

Quality Control Technician

Detailer Drafter

Topographical Drafter

Cook

Meat Cutter

Barber

Butcher-Meat Cutter

Baker

Machinist

Tool & Die Maker

Refrigeration, Air-Conditioning, & Heating Mechanic

Millwright

Industrial Sewing Machine Repair

Offset Press Operator

Dental Technican

Garment Cutter

Electrical Equipment Mechanic

Maintenance/Electrical

Painter

Maintenance/Carpenter

Maintenance/Plumber

Boiler Operator

ACE -- Adult Continuing Education

Accounting

Psychology

Small Business Management

Income Tax Preparation

Afro Hlstory

Spanish

Yoga

Guide to Better Living

Speak-up

There are no classes that are restricted by length of sentence. At the A/O lecture it is stated that regardless of length of sentence any class can be entered.

On the sample class rolls attached, there are 20 Hispanic inmates of which 16 can converse in the English language sufficient to understand a non-Spanish speaking instructor.

Glossary of Terms

Behind The Wall—Refers to inmates, programs and facilities contained within the maximum security facility at Lewisburg. The prison is surrounded by a 12 foot high brick wall. This is distinguished from a minimum security facility which need not have a fence.

Community Custody—One of three types of custody designations; i.e., in, out, and community. Community custody is required in order for an inmate to go into the community unsupervised on furlough status.

Cop Out—A request slip submitted by an inmate to the warden seeking certain action.

Dead Time—That time spent by an inmate in administrative detention while awaiting disposition of charges against him. This time does not count toward any sentence which might be imposed.

Good Time—Refers to time taken off an inmate's normal sentence. It can be provided by statute or as a reward for the inmate's good work or performance.

IDC—The Institutional Disciplinary Committee, a body empowered to impose major or minor sanctions for violation of an institutional rule.

Out Custody—One of three types of custody designations; i.e., in, out and community. Out custody

enables an inmate to work outside in a minimum security institution with supervision. An inmate with out custody is not eligible for a furlough.

Quarters—The act of excusing an inmate from his work assignment and confining him to his cell in order to recuperate from an illness.

Red Top—The center corridor on the first floor of the prison which is made of red tile.

Salient Factor Score—The sum total of points given to an inmate which reflects his length of sentence, prior convictions, length of time before parole, etc.

Segregation—Special housing units including administrative detention and disciplinary segregation which are used to house inmates apart from the general population.

Shot—The written incident report generated as a result of an inmate violating an institutional rule.

UDC—The Unit Disciplinary Committee. A body comprised of members of an inmate's unit team which is empowered to drop or dispose of all charges against an inmate except "greatest severity" offenses, which are referred to the IDC.

UNICOR—The trade name for Federal Prison Industries Incorporated.

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