

1 CIVIL RIGHTS COMMISSION

2 March 15, 1974

3 Volume IV

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## 1 LATE SESSION

2  
3 THE CHAIRPERSON: The Commission will again come to  
4 order, please, if we could have Mr. Akins, Mr. Miller and  
5 Mr. Miranda, please?

6 Gentlemen, thank you very much.

7 We have Miller, Akins and Miranda here.

8 That was a rather long 20 minutes, I'm sure.

9 Would each of you state your name, occupation and  
10 address, for the record, please?

11 MR. MILLER: James Miller, carpenter, Arizona State  
12 Prison.

13 MR. AKINS: Sam Akins, yard worker, Arizona State  
14 Prison.

15 MR. MIRANDA: Chico Miranda, photographer, Arizona  
16 State Prison.

17 THE CHAIRPERSON: Thank you.

18 Mr. Levis?

19 Q (By Mr. Levis.) Mr. Akins, is there an inmate  
20 council at Arizona State Prison?

21  
22  
23 SAM AKINS

24  
25 A (By Mr. Akins.) No, there isn't.

1 Q Has there ever been an inmate council?

2 A Not in the last 12 years, there hasn't.

3 Q Have the inmates ever attempted to create one?

4 A Yes, they have.

5 Q And what was the result of that and when was that?

6 A I believe the last attempt was 1970 or '71 and the  
7 administration at that time promised that it would be  
8 looked into and recommendations would be made and we'd be  
9 allowed to have one.

10 Q Under the present administration, have the inmates  
11 attempted to create such a council?

12 A Not to my knowledge.

13 Q Do you have any knowledge as to why that has been?

14 A No, I really don't.

15 Q Are there any outside groups at Arizona State Prison  
16 such as Seventh Step and religious organizations?

17 A Yes, yes, there are.

18 Q What type of organizations?

19 A We have the Seven Steps, and we have a Catholic  
20 Religion and the Protestant Religion and I think they have  
21 a rabbi, come down periodically. And they have a Seventh  
22 Day Adventist or something like that. That's the extent of  
23 it, I know of.

24 Q Thank you, Mr. Miller.

25 Mrs. Miller, are there any chaplains at the Arizona State

1 State Prison or any religious facilities?  
2  
3

4 JAMES MILLER  
5

6 A. (By Mr. Miller.) Yes, there is.

7 Q. What kind of chaplains are there?

8 A. They have a Protestant, a Catholic and a rabbi, I  
9 believe, comes down occasionally.

10 Q. Is it difficult for minority religions to get a  
11 chaplain or rabbi down for services, if inmates so request?

12 A. I'm not familiar with the procedure they go through  
13 to get a rabbi down there or anything, but I know it has been  
14 hard to see him.

15 Q. Has it been difficult for you, personally, or --

16 A. Yes.

17 Q. What do you do, you have to make a request of the  
18 warden or what is the procedure?

19 A. To my knowledge, they don't have any set procedure,  
20 just you don't know about it.

21 Q. Do they have a rabbi down for any services at all?

22 A. Occasionally, yes.

23 Q. On any set schedule?

24 A. No.

25 Q. And I take it the Protestant and the Catholic Chaplain

1 take care of those services, the other services?

2 A. Pardon me?

3 Q. Take care of the regular Protestant and Catholic  
4 services?

5 A. Yes, they do.

6 Q. Are there any other religious organizations?

7 A. I think the Seventh Day Adventists come down.

8 Q. Are there any provisions for handling religious  
9 dietary laws on special holidays?

10 A. No, there is not.

11 Q. Mr. Miranda, we heard some testimony from Mr. Baeza  
12 concerning Macho and I just wondered if you could explain  
13 this organization?

14

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16

T  
CHICO MIRANDA

17

18 A. (By Mr. Miranda.) In what respect?

19 Q. As I understand it you are in the Macho organization?

20 A. Yes, sir.

21 Q. And Macho is a selfhelp group?

22 A. Yes, it is.

23 Q. And it's composed of Chicano inmates?

24 A. Yes, it is.

25 Q. And has a staff sponsor?

1 A Yes, we have three staff sponsors.

2 Q Do you have to have a sponsor to organize such a  
3 group?

4 A Yes, you definitely do.

5 Q And what does Macho do and how often does Macho meet  
6 at the state prison?

7 A Macho meets once a week at the state prison as a  
8 whole, the general population in the group, and what they  
9 do is literally they just take advantage of anything, any  
10 opportunities, programs, dedication or anything that the  
11 institution has to offer.

12 They work along the guidelines in respect of the  
13 people, the supervisors of education, vocational training  
14 and so forth, to more or less take the Chicano workers  
15 off the yards, off the gang and so forth, put them in  
16 schools, put them in vocational training and just outright  
17 take advantage of anything the institution has to offer  
18 and we kind of interpret, run interference or whatever,  
19 for the guys that have trouble communicating or just really  
20 don't want to communicate sometimes.

21 Q Now, it's my understanding that Macho is translating  
22 the disciplinary rules into Spanish, is that correct?

23 A Yes, both disciplinary and the mail procedures.

24 Q Are being --

25 A We're doing both, we're translating them into Spanish

1 for the guys that have difficulty, well, that can't speak  
2 English, we are writing --

3 Q How many inmates are there who can't speak English  
4 or read or write?

5 A Well, numbers, I'll take a guess, there's about 350  
6 Chicanos in the institution and I would venture to say  
7 there's about 75 that don't speak English, read or write.

8 Q And how many members are there in Macho?

9 A Macho we have about 180 members.

10 Q Is there any restriction on the size of the member-  
11 ship or the size of the meeting?

12 A Yes, there is.

13 Q On which?

14 A There's a restriction on the size of the membership  
15 which is eight, but in our instance they haven't enforced  
16 it in any way because we haven't caused any problems, we  
17 haven't been a problem or anything like that, so they let  
18 those attend that do come that are on our list, which is  
19 about 120 average every week, 130.

20 Q You have 120 at your meetings?

21 A Yes. We would have more but they started a school  
22 class and about 30 of our membership that we carry go to  
23 school on that day and that's a class where they teach  
24 English to nonspeaking --

25 Q Are there any religious services in Spanish or any



1 other programs for inmates who don't speak English?

2 A There hadn't been, but there was one instituted about  
3 two months ago or so and it lasted about two or three  
4 weeks, which was a Spanish mass for all the Chicanos that  
5 wanted to attend mass and it was completely done in Spanish  
6 and it was assisted by the actual members of the people  
7 that went, the congregation themselves but it was dis-  
8 continued a couple of weeks ago and the reasons haven't been  
9 set forth by anybody, the administration or Father Murphy,  
10 the Catholic Chaplain.

11 Q As I understand it, Father Murphy will be testifying.

12 You said that Macho works with the educational  
13 department, in what way do you work with the educational  
14 department?

15 A In finding out actual foremats as to what to do,  
16 what test to take, what is available and so forth, so that  
17 we can in turn relay it to all the Chicano population.  
18 And therefore create some kind of channel or program or  
19 whatever you want to call it, just to let them know what  
20 they have to do and then, sometimes, we do it for them, we  
21 actually enroll them and so forth and do the necessary  
22 paper work and so forth, in that sense we work with them.

23 Q Are you president of Macho now?

24 A Yes, I am.

25 Q Mr. Akins, Mr. Simons talked about Seventh Step, he

1 indicated that you're on the inmate council of Seventh  
2 Step, is that correct?

3 A. (By Mr. Akins.) That's right.

4 Q. And what do the inmates do in Seventh Step, is it  
5 a weekly session as he indicated, a selfhelp-type session?

6 A. Yes, it is. We try to, we have a thing we call -- I  
7 keep trying to say moderate, but anyway, we call the inmate  
8 up that's going home, that's coming up toward his release  
9 date and we interview him and ask him questions and try to  
10 get him to face the reality of what he's going out to  
11 face ~~once~~ he's released. So we try to help him in that  
12 way and we try to help him as far as getting a job or place  
13 to ~~say~~ once they are released and counseling once they  
14 are on the outside.

15 Q. So, it's an encounter-type group to prepare the in-  
16 mate for the free world?

17 A. Yes.

18 DR. GLASS: Madame Chairman, I'd like to ask Mr.  
19 Akins a question.

20 THE CHAIRPERSON: All right.

21 Q. (By Dr. Glass.) You were involuntarily transferred  
22 out of the prison, I understand, some time back?

23 A. That's correct.

24 Q. And how did you manage to get back here again?

25 A. Well, some of my friends and my family, I think, were

1 consistently asking the new director to give us another  
2 chance to bring us back out and since he didn't know us,  
3 the guys that were transferred, we were transferred before  
4 he came in, and I think he decided to just call us back  
5 out and give us a chance.

6 Q How have you found it, how'd they seem to treat  
7 you when you returned here, have you noticed any --

8 A Well, I've noticed several major changes and several  
9 progressive changes.

10 Q Could you elaborate on just a few of these, just  
11 condense it as quick as you can?

12 A Well, one, major complaints have been in the past on  
13 segregated living conditions as far as the cells are con-  
14 cerned, that's been eradicated. One of the things was cer-  
15 tain jobs had been denied Blacks and that no longer exists,  
16 to my knowledge, and just things like that, changes that  
17 Blacks usually would be interested in seeing come about  
18 and these things have come about, some of them.

19 Q I'd like to ask all three of you the same question,  
20 then I'll conclude my questioning here.

21 What are your real hangups in the prison, what do  
22 you think needs to be done in the prison to help make  
23 things better?

24 I know there's a lot of things that you probably  
25 could talk about, but briefly try to summarize what you think

1 the problems are in the prison at the moment?

2 THE CHAIRPERSON: Mr. Miller, why don't we start  
3 with you?

4 A (By Mr. Miller.) Well, I think that, I believe that  
5 more money should be appropriated to get a higher caliber of  
6 guards, you know, we do get shook down a lot, you know,  
7 unnecessarily. And I can't say for everybody, but most of  
8 us do. I've seen a lot of good changes and the security  
9 has come up.

10 THE CHAIRPERSON: Mr. Akins?

11 A (By Mr. Akins.) You want to know the things, the  
12 inmates, the things that would improve the prison? I think  
13 the recreation department should be improved. Like in  
14 Kentucky, I had the privilege of enjoying a gymnasium and  
15 field house, and that takes care of giving an inmate some-  
16 thing to do on a rainy day or the day the weather's too hot,  
17 you can participate in sports activities, I think that would  
18 be a great improvement.

19 And I think that if we had any Blacks as far as in  
20 authoritative positions, decision making capacities inside  
21 the prison, like on the disciplinary committees and council  
22 or something along that line, that it would be a big asset  
23 to the Blacks that they could relate to this.

24 Q (BY DR. GLASS.) I didn't quite understand what  
25 you said.

1           A       In the history of the institution since I've been  
2 there, for 12 years, there's never been any Black in any  
3 decision making capacity. As far as captain, lieutenant,  
4 anything above a sergeant and if this was eradicated,  
5 then I think that would be a major improvement.

6           THE CHAIRPERSON: Mr. Miranda?

7           A       (By Mr. Miranda.) I would have to stick with  
8 facilities for groups, organizations and so forth, for the  
9 actual inmate, like you mentioned an advisory council, a  
10 meeting place for various groups to go to conduct their  
11 work, conduct their interviews and so forth and overall, just  
12 some type of building, facilities or offices, so forth, so  
13 these groups could handle a lot of the work that really is  
14 part of the department of correction's work, as far as  
15 securing jobs for inmates, finding place of residence, helping  
16 with family problems, financial assistance, contacts with  
17 schools and so forth.

18                   And at this time there is no place for any organiza-  
19 tion, one group or anybody can meet to discuss things like  
20 this or plan.

21                   They've one meeting place and that's where you go  
22 to have your general meeting and that's the only time you  
23 see everybody else during the week. If they were to have  
24 more facilities, typewriters, mimeograph machines and so forth  
25 and communications with the outside world, I think that would

1 make a big difference as far as the inmates are concerned,  
2 all the way around.

3 THE CHAIRPERSON: Thank you.

4 Are there any other questions of the inmates?

5 Mr. Guerrero?

6 Q (By Rep. Guerrero.) One question.

7 I might direct this to Mr. Miranda.

8 Mr. Miranda, have you ever had to or wanted to go  
9 through the chow line for seconds?

10 A (By Mr. Miranda.) Very rarely.

11 Q I mean have you ever gone through, you know, for  
12 seconds?

13 A Yes, I would say I have, yes.

14 Q Have you had any problem getting seconds?

15 A Well, yes, I should have said that first you're not  
16 supposed to, no. Yes, I've had problems, but -- well, I  
17 haven't had any personally, because I've never been caught  
18 let's put it that way, but you're not supposed to do it.  
19 And I would imagine yes, there's quite a few other people  
20 that would like to get seconds or more of whatever a certain  
21 menu is being served or whatever.

22 Q Mr. Miranda, what do you have to do to get seconds?

23 A I guess spend a couple of days in the hole, I don't  
24 know. Because I don't think that there's any provisions for  
25 getting seconds at all.

1 Q Not to your knowledge anyway, right?

2 A Not to my knowledge, no.

3 Q Mr. Akins, have you ever, maybe come in a little  
4 tired or hungry, you know, and wanted seconds in the chow  
5 line?

6 A (By Mr. Akins.) Yes, I've wanted seconds.

7 Q Have you ever had seconds?

8 A No. No, they don't serve seconds.

9 Q Well, is it possible to get seconds if you want,  
10 what do you have to do to get seconds?

11 A Well, you will have to jeopardize yourself or someone  
12 else from the kitchen by asking them to steal something  
13 and pay them to steal it for you and both of you will be  
14 subject to disciplinary action.

15 Q Mr. Miller, have you ever had occasion to want  
16 seconds in the chow line?

17 A (By Mr. Miller.) Yes, I have.

18 Q Has ~~it~~ been refused to you?

19 A Yes.

20 Q Under what circumstances? Why are they refused?  
21 Can you get it if you go outside the building and  
22 come around the front door again?

23 A Yes, you can go out and go around, but there's a  
24 risk you got to take getting caught.

25 THE CHAIRPERSON: Mr. Guerrero, do you have any other

1 questions?

2 Q REP. GUERRERO: Yes.

3 We had prior testimony, Madame Chairman, to my  
4 recollection, that all a person had to do was just go  
5 through the line, go right back out and get right back in  
6 line.

7 THE CHAIRPERSON: Mr. Akins?

8 A (By Mr. Akins.) No, that's not true, that's absolutely  
9 not true, I've been there 12 years and they don't do it  
10 like that.

11 THE CHAIRPERSON: Mr. Moran, did you wish to make a  
12 statement?

13 MR. MORAN: Just quickly, we have to control the  
14 main portion of the meal whether it's meat or whatever it  
15 is, and again for clarification, initially, through the line,  
16 within reason, can't you take anything you want, as much  
17 potatoes or bread or whatever they got?

18 A Right, maybe I should have clarified that, all the  
19 items aren't rationed, just certain items are rationed,  
20 dessert and possibly the meat, but with the vegetables or  
21 whatever fruit might be on the line, you can get as much as  
22 you want.

23 THE CHAIRPERSON: You take as much as you want?

24 A That will eliminate part of the desire for seconds.

25 Q (By Rep. Guerrero.) One further question, I might



1 direct this to any of the three.

2 Have you known of any cases where they've maybe  
3 thrown away original portions in the garbage there, hadn't  
4 been used, instead of -- I mean to your knowledge, I'll cut  
5 the question off there.

6 THE CHAIRPERSON: Any of the three of you would  
7 like to respond to that?

8 A. (By Mr. Akins.) That's done consistently.

9 THE CHAIRPERSON: Pardon, sir?

10 A. I'd say that's done consistently, I work on the  
11 garbage --

12 Q. (By Rep. Guerrero.) Have you seen this done?

13 A. I've seen this done consistently, but let me say  
14 this, that was in the past some time ago and I don't know  
15 with the new food service director, for sure, that's happened  
16 now, but just, I imagine it does.

17 Q. Have any other two inmates seen this done personally?

18 A. (By Mr. Miller.) No.

19 A. (By Mr. Miranda.) All I've seen is that it's been  
20 reused, you know, I mean it hasn't been thrown away, it has  
21 been, well, for instance the main dish, whatever it was on  
22 this certain day, and the next day you'll find it in the  
23 soup or something like that, really, you know, it's stuff  
24 that they can reuse without hurting, and they use it.

25 Q. I have one more question.

1 THE CHAIRPERSON: Mr. Guerrero, I would like to say  
2 that my family generally eats leftovers themselves.

3 REP. GUERRERO: I've no objection to leftovers, what  
4 I was trying to bring out, Madame Chairman, is the fact  
5 that we have conflicting testimony here as to what action  
6 in the opinion of the inmates --

7 MR. LEVIS: Point of order.

8 As I understand the testimony, there is conflict only  
9 in whether the inmates can go outside and get seconds.

10 As far as Mr. Akins seeing material thrown in the  
11 garbage, I think he indicated that was previously, prior  
12 to a year ago, and the new administration.

13 REP. GUERRERO: Well, Madame Chairman, I meant since  
14 the new administration has been there, have you had any  
15 problem getting seconds, since the new administration took  
16 effect?

17 THE CHAIRPERSON: Mr. Guerrero, they have already  
18 answered that and said yes, they do.

19 REP. GUERRERO: I don't know if it was prior, just  
20 a minute, I think the counsel here mentioned that this  
21 was two years ago.

22 THE CHAIRPERSON: No, he mentioned that the throwing  
23 away of the food in the garbage was in the prior adminis-  
24 tration, Mr. Akins pointed that out when he was talking  
25 about throwing away food.

I

1 I think we have two things in question here, one can  
2 inmates go back for seconds if they want to, and if so, how.  
3 And secondly, is food that could be given to them as seconds  
4 instead being thrown in the garbage. Mr. Akins has told  
5 us here this afternoon that, you know, in prior adminis-  
6 trations when he was working on the garbage detail, the  
7 food that could have been served as seconds were thrown  
8 away, if I'm correct, is that correct, Mr. Akins?

9 A (By Mr. Akins.) Yes.

10 THE CHAIRPERSON: They are saying, however, all of  
11 them, that all three of them are saying, the general policy  
12 is they don't go back for seconds unless they jeopardize  
13 themselves.

14 REP. GUERRERO: Just a minute, I wanted to ask that  
15 question again, I'll rephrase the question.

16 Q (By Rep. Guerrero.) Mr. Akins, did you say a while  
17 ago -- would you restate, or who was it, I think it was  
18 Miller, that there's a danger that if you should go outside  
19 the building, come back in, you aren't supposed to get  
20 back in line?

21 A (By Mr. Miller.) Yes, sir, there is.

22 Q For any type of seconds, whether it's not the main  
23 ration?

24 A Right. For any reason.

25 Q Does any of the other two disagree with that being

1 the practice? Under the present administration?

2 No disagreement, then, they all concur.

3 Thank you.

4 I have one other question.

5 Mr. Akins, what's your duration been here in the  
6 institution, here in --

7 A. ~~(By Mr. Akins) Twelve years and one month today.~~

8 Q. Twelve years and one month?

9 A. Yes, sir.

10 Q. Mr. Akins, they used to have a Black heritage group  
11 that used to meet here, you had officers and people come  
12 in and speak with the group, what happened to that group?

13 A. The group dissolved while I was away in Kentucky  
14 and I haven't been able to get all the information on why  
15 it was dissolved, but from what I can hear since I've  
16 been back, ~~you~~ haven't talked with any administration per-  
17 sonnel about it, but from the inmates that they're having  
18 a lot of trouble getting it organized again due to the  
19 administrative assistance.

20 Q. Mr. Akins, to your knowledge, about what point in  
21 time was this group dissolved?

22 A. Like I say, I'm not sure, but I believe it was  
23 around last June.

24 Q. Under the present administration?

25 A. I'm not really sure when the present administration

1 came in.

2 Q Around June.

3 A I would say it was around the same time.

4 Q One further question of Mr. Miranda.

5 Mr. Miranda, what happened to the organization  
6 they had in the institution called MUC,.....Mexican Unity  
7 Council?

8 A (By Mr. Miranda.) It was revamped, let's say, it  
9 was -- not meeting with the then-administration's policies  
10 for a Mexican organization policy and we reorganized.

11 Q Was it by suggestion of administration?

12 A At that time it was done by suggestion of adminis-  
13 tration if we wanted to continue the Chicano movement in  
14 the prison.

15 Q Was any reason given to you?

16 A Yes, in the sense at that time it was given to us,  
17 it was because there was, oh, let me put it this way, they  
18 didn't want to allow any political groups, any radical  
19 groups or so forth to be enjoined together in the institution.  
20 They didn't want to recognize them.

21 Q Mr. Miranda, are the same persons affiliated with  
22 Macho now that were in the MUC organization?

23 A Do you mean inside or outside?

24 Q Inside?

25 A Inside it's the same membership, yes.

1 Q Under Macho?

2 A Yes, it is, with a different executive outside.

3 Q Then it was just a change in the title only?

4 A Well, title and concepts and goals, because we went  
5 from a political radical group in a sense, what they labeled  
6 it, we went into an educational-vocational-rehabilitation  
7 group.

8 REP. GUERRERO: Thank you.

9 THE CHAIRPERSON: Do you have any other questions,  
10 Mr. Guerrero?

11 REP. GUERRERO: That's all.

12 THE CHAIRPERSON: Are there any other questions of  
13 the panel of these three gentlemen?

14 If not, we'd like to thank you for coming this  
15 afternoon, and giving us this testimony.

16 Thank you.

17 The Chair would like to now call Mr. Neil Kette,  
18 Reverend John Voth and Father Frances Murphy.

19 Gentlemen, while we're waiting for the signs, I  
20 would ask that you each give your name, occupation and  
21 address, please?

22 MR. KETTE: Neil Kette, Deputy Superintendent,  
23 Programs, Florence, Arizona.

24 REV. VOTH: Chaplain John Voth, Protestant Chaplain,  
25 and I live in Mesa.

1 FATHER MURPHY: Father Murphy, Catholic Chaplain.  
2 I live in Florence.

3 THE CHAIRPERSON: Thank you, Gentlemen.

4 Mr. Williams, did you have some questions for these  
5 gentlemen?

6 MR. WILLIAMS: Yes.

7 Q (By Mr. Williams.) Mr. Kette, are you responsible  
8 for the overall supervision of mail and visiting facility?

9

10

11

NEIL KETTE

12

13 A (By Mr. Kette.) That's right, yes.

14 Let me state for the record, while he finds the  
15 place here, I've been told that all of the inmates who were  
16 to appear here have been taken back to the institution and  
17 been fed a full meal.

18 THE CHAIRPERSON: Were they given seconds, Mr. Kette?

19 A No seconds, no seconds.

20 DR. GLASS: Madame Chairman, I would like to ask Mr.  
21 Kette a question.

22 THE CHAIRPERSON: Yes, Dr. Glass. Go ahead.

23 Q (By Dr. Glass.) Mr. Kette, how much time do you  
24 spend, since you're in charge of all these programs, how much  
25 time do you spend attending the programs to evaluate programs

1 in the prison?

2 A Very little, Dr. Glass. My immediate assistant, Mr.  
3 Jim McLaughlin, is technically in charge of coordinating the  
4 programs from the administrative point of view.

5 DR. GLASS: Very well.

6 I have no further questions, Madame Chairman.

7 THE CHAIRPERSON: Thank you, Dr. Glass.

8 Mr. Williams?

9 Q (By Mr. Williams.) Mr. Kette, is there an inmate  
10 council at the prison?

11 A No, sir, there is not.

12 Q How are grievances handled by the prisoners? What  
13 method do they express their grievances?

14 A Well, if you're talking in terms of club or a  
15 committee problems, these are handled by the inmate club  
16 sponsors. We do have counselors in the -- working in the  
17 cell blocks in the IER section and in the OT section, who  
18 respond to requests for help from the inmates.

19 Q How does the administration communicate with the  
20 prison body?

21 A Communication is a problem, about the only way that  
22 we can very effectively and consistently do it is through  
23 the inmate newspaper.

24 Q How often are inmate news published right now?

25 A Hopefully it comes out every two weeks, but there are



1 occasionally problems with the printing and two and a half  
2 weeks, sometimes.

3 We do have bulletin board posted at all strategic  
4 areas in the institution and anything that we want to get  
5 across immediately is put out in that fashion. When we have  
6 some particular item such as the new mail regulations or  
7 the disciplinary procedures, the inmates were personally  
8 handed copies of those items.

9 Q What do you think the attitude of the inmates would  
10 be to establishing a council, inmate council?

11 A I imagine the general attitude of the inmates would  
12 be favorable.

13 Q We've had the inmates discuss the outside groups  
14 that come in, do you want to briefly outline the groups and  
15 your feeling of how they interact with the inmates?

16 A Well, first of all, let me state I don't think that  
17 all or any of these outside groups have all of the answers  
18 to problems in corrections. Our philosophy is, however, that  
19 we want to encourage inmates to get involved in programs,  
20 with the hope that at least if they're in a program to merely  
21 impress the parole board that at least something will rub  
22 off, so we are operating on that philosophy.

23 We want inmates in programs on a voluntary basis, we  
24 don't want to recruit them into programs. We've had no  
25 particular problems, I'm not quite sure how I can really

1 directly answer your question. I see no problems in the  
2 interaction that's going on now, if that's what you mean.

3 Q We were also told that there's no, at this point,  
4 Black heritage group or Black group mainly because they  
5 lack a sponsor. Do you see the need for such an organiza-  
6 tion to work with these certain minorities in the prison  
7 facility?

8 A Yes, I do, the Black inmates make up a significant  
9 portion of our inmate population, there is a need for a  
10 group. All of the organizations that were in effect at  
11 the time of the deaths of the two officers at the prison  
12 were disbanded, along about September of this past year.  
13 Mr. McLaughlin met with representatives of the groups that  
14 had been organized previously, he told them to get their  
15 stuff together, put it down on paper, present it to the  
16 administration, what they want to do, their goals, purposes  
17 and this type of thing.

18 And the Seventh Step and the Machos jumped on the  
19 bandwagon, they got their stuff together, and they were  
20 organized and have been operating for several months quite  
21 effectively.

22 The Black organization was quite slow in putting  
23 their material together, they did present us some materials  
24 about two weeks ago, we returned it to them, we asked them  
25 to clean it up and to send it back for approval.

1 Q Now, the Black organization clearly doesn't have a  
2 sponsor, if they get the material together, is there any-  
3 thing the prison administration can do to influence or  
4 to try and recruit someone who could act as a sponsor for  
5 the group?

6 A We have tried to get sponsors who are interested in  
7 becoming involved in the programs. Therefore we prefer that  
8 the inmate group themselves try to select an officer who  
9 is compatible with what they want to do.

10 In this particular case, I assume that the inmates  
11 will want a Black officer to be their sponsor.

12 MR. WILLIAMS: That's all the questions I have of  
13 Mr. Kette.

14 THE CHAIRPERSON: Mr. Guerrero, do you have some  
15 questions?

16 REP. GUERRERO: Just to Mr. Kette.

17 Q (By Rep. Guerrero.) Mr. Kette, could you give us  
18 a brief summary of your background in corrections?

19 A I started at the Ohio Penitentiary in Columbus, Ohio,  
20 as a social worker in 1960. In 1965, I became supervisor of  
21 the department of social work at the Ohio Penitentiary, and  
22 in January, 1968, I became deputy warden in charge of  
23 treatment at the Ohio Penitentiary, and I've been in the  
24 Arizona penal system since this past August.

25 Q You resigned a position at Ohio Penitentiary in order

1 to come out here?

2 A. Yes, sir.

3 Q. I guess Mr. Moran invited you to be on the staff?  
4 You are Assistant Warden, aren't you?

5 A. Yes, sir.

6 Q. He invited you to participate with him here in  
7 administration as assistant warden?

8 A. Through Mr. Cardwell, I worked with Mr. Cardwell in  
9 the Ohio Penitentiary.

10 Q. I'm sorry, Mr. Cardwell invited you?

11 A. Yes.

12 Q. And Mr. Cardwell resigned over there to come over  
13 here?

14 A. Right.

15 REP. GUERRERO: Thank you.

16 THE CHAIRPERSON: Are there any other questions of  
17 the gentlemen?

18 A. May I make one more comment?

19 I got on Yale Simons -- Yale pointed out that there's  
20 no Narc-anon program at the Arizona State Prison, I pointed  
21 out to him that this Sunday we are having a conference of the  
22 Narc-anon group at the Arizona State Prison with approximately  
23 80 outside guests.

24 MR. SIMONS: I said I apologize.

25 A. (By Mr. Kette.) I wanted to make it for the record,

1 Yale.

2 Also let me point out too, I want to get on Yale  
3 again, he said there was no AA program at the present time,  
4 we had the problem of the AA group getting their thinking  
5 together too, and their former sponsor has finally come  
6 out of the woodwork and presented himself to us and there  
7 have been two organization meetings within the past several  
8 weeks at the institution. And I assume very shortly we  
9 will have an active AA Chapter again at the prison.

10 That's all.

11 THE CHAIRPERSON: Reverend Voth, what type of  
12 religious services --

13 A (By Mr. Kette.) Oh, pardon me, pardon me, may I  
14 inject one more organization that wasn't submitted initially  
15 to us. We also now have a Jay-Cee program in our OT area,  
16 we've just recently gotten this underway, and I want to  
17 make sure to give those folks some credit too.

18 THE CHAIRPERSON: Thank you, Mr. Kette.

19 REP. GUERRERO: One more question.

20 Q (By Rep. Guerrero.) Mr. Kette, where you were before,  
21 in Ohio, is it Ohio State Penitentiary?

22 A Ohio Penitentiary.

23 Q Did they have similar groups within the institution  
24 as they have here?

25 A We had, our Spanish-speaking population was quite small,

1 it wasn't near the size of Macho, but we did have a Spanish  
2 group, we did not have Seventh Step, we had a program that  
3 was similar to Narc-anon, we had three units of the Great  
4 Books Club, we had Alcholics Anonymous, we had fiye dif-  
5 ferent music organizations, we had an art club, we had an  
6 outside group known as CONCERNERS, which was made up of  
7 members of the community, coming in on a weekly basis.  
8

9 With our honor men, we had a stamp club that had some  
10 nationwide recognition, we had Spanish mass, we had several  
11 group therapy programs.

12 DR. GLASS: Madame Chairman, I'd like to ask one  
13 more.

14 REP. GUERRERO: One more question and I'll be through.

15 Q (By Rep. Guerrero.) Did you have any Italian  
16 groups or Polish groups or German groups, heritage groups,  
17 anything like that?

18 A. No, no.

19 THE CHAIRPERSON: Dr. Glass?

20 Q (By Dr. Glass.) Who sets the regulations governing  
21 how many outside people can come into the prison? Who  
22 makes this decision, you or Warden Cardwell?

23 A. Well, the warden, of course, makes the final decision  
24 on those programs, I think the number ten was arbitrarily  
25 set and we've expanded that to 15.

Q It's been expanded to 15?

1       A     Yes, that is for the general monthly or weekly  
2 meetings or whatever.

3             We have, of course, exceptions to those regulations  
4 when we have banquets or something of that type.

5       Q     Very well, but it has been increased?

6       A     Yes, sir.

7       DR. GLASS: Thank you, that's all I have.

8       THE CHAIRPERSON: Reverend Voth, what type of re-  
9 ligious services are held in the institution?

10  
11  
12                                   REVEREND JOHN VOTH

13  
14       A     (By Rev. Voth.) I'll speak for my particular re-  
15 sponsibility and along that line I'd like to say this, that  
16 with the new institution of the new -- with the new leader-  
17 ship, other people are expected to carry out their re-  
18 sponsibilities and are held responsible for it, as a result,  
19 the supervision is in that respect, rather than closely  
20 watching.

21             My work, for instance, Mr. Kette is always aware of  
22 what's going on, he wants reports, he likes to hear verbal  
23 reports of what's going on and the other side of it is that  
24 the leadership is always walking the yard.

25             One of the traditions is that the warden comes in,

1 usually around 4:00 o'clock, and sort of moseys around to  
2 see how the shift is going.

3 As a result, the inmates have many opportunities to  
4 communicate with the administration.

5 Now, in that same way, my responsibilities, then,  
6 are to conduct the non-Catholic religious programs and  
7 worship services. I'm responsible for making sure that  
8 there is opportunity for Protestant worship on the men's side  
9 as well as the women's side. I'm responsible to conduct  
10 those services. The sacraments are provided and other ser-  
11 vices also coordinated. ~~The Jewish services from a rabbi,~~  
12 ~~by the~~ The Jewish services from a rabbi that comes down for  
13 the holidays on a part time basis, comes down and I coordinate  
14 that. We have Mormon services twice a month, on Saturdays.  
15 And the men come in to conduct those services.

16 And also educational religious instruction during  
17 that two-hour period.

18 THE CHAIRPERSON: What chaplains are paid for their  
19 services by the institution?

20 A. Two. Protestant and Catholic, Father Murphy and myself.

21 And I think there's also some, and then there is some  
22 pay provided to help the Jewish Chaplain to come down.

23 THE CHAIRPERSON: How are religious dietary laws  
24 handled by the institution today?

25 A. About the same way I suspect as medical dietary rules



1 are kept, if an inmate were to request this, it would be  
2 worked out through the chaplain, myself, so that a man  
3 could honor those.

4 Now, Father can probably speak in terms of Catholic  
5 dietary problems.

6 THE CHAIRPERSON: How are various religious holidays  
7 handled by the prison?

8 A. Well, Neil said, "Chaplain, do something special  
9 for Easter", and okay, so what we're doing is we're having  
10 our regular standard services on Sunday morning, but we  
11 are planning a special service, bringing in outside choral  
12 groups, dramatic drama groups to have a very special service  
13 on Easter Sunday evening.

14 Holidays, oh yes, masses are said, if there's a --  
15 I have Christmas Eve Services, this is -- it depends upon  
16 my desire to be responsible and see what I want to initiate  
17 and then working it through the system.

18 THE CHAIRPERSON: Thank you very much.

19 Is attendance at religious services required or are  
20 there restrictions on who may attend your religious services?

21 A. Voluntary, completely voluntary, no one is coerced into  
22 attending a religious service.

23 For matters of security, we try to have the men as  
24 a general rule, attend the service to which they sign them-  
25 selves to when they first come into the institution and give

1 a designation.

2 So, Protestants go to Protestant Services, Catholics  
3 go to Catholic Services, but if a Jewish person comes to  
4 me and says he would like to attend Protestant Services,  
5 after determining his sincere desire to do this and that  
6 he's not trying to play some game, like perhaps pass a  
7 little dope or something, during worship or play some other  
8 kind of game we're suspicious of. If I feel he's sincere  
9 a memo's put up and that man can attend.

10 THE CHAIRPERSON: Can an inmate refuse to see a  
11 religious leader?

12 A. Refuse to see a religious leader? Certainly, all  
13 he has to do is stay away.

14 THE CHAIRPERSON: Do you and Father Murphy visit  
15 inmates in lockup?

16 A. Yes, yes. I try to visit the lockup at least once  
17 a week, passing out a variety of religious materials, try  
18 to become aware of what the religious needs are, if they're  
19 Buddhist, I've ordered Buddhist materials, if they happen  
20 to be some other sect group, I provide them with that  
21 material. Try to also help them in the correspondence at  
22 this particular point with the religious leaders. If there's  
23 a big enough need so that a group of men were to come request-  
24 ing a special service, I'm sure that I would have to take this  
25 to Mr. Kette and it would be seriously considered and probably

1 would be allowed to happen.

2 THE CHAIRPERSON: Thank you.

3 In addition to your religious services, what other  
4 duties do you have as chaplain?

5 A. One of the prime responsibilities is counseling,  
6 and education, I have conducted group bible studies, I've  
7 conducted special drug groups that were men who had a  
8 religious orientation and who wanted to work through their  
9 problems with a pastor, rather than with a counselor, and  
10 conducted those kinds of things.

11 We also have a Christian Men's Fellowship which  
12 meets on Thursday night, which is part of the club program,  
13 we have about 80 men in attendance there, on the average.  
14 This is led by the inmates, they invite outside ministers  
15 and guests to come in to share in the program. They conduct  
16 it, they lead it. I function only as an advisor.

17 THE CHAIRPERSON: Thank you.

18 Father Murphy, as Catholic Chaplain, do you hold  
19 Sunday Catholic Services at the prison?

20

21

22

FATHER FRANCES MURPHY

23

24

A. (By Father Murphy.) Yes, every Sunday.

25

THE CHAIRPERSON: Is attendance at your services re-

1 quired?

2 A. No.

3 THE CHAIRPERSON: Are there any restrictions on who  
4 may attend Catholic Services?

5 A. No, everybody's invited.

6 THE CHAIRPERSON: How are religious dietary laws  
7 handled in the Catholic Religion?

8 A. Catholics eat everything.

9 DR. GLASS: Each time they go through the line?

10 THE CHAIRPERSON: I was specifically thinking  
11 about things like any fish during lent and --

12 A. Oh, no, the bishop has excused anybody in an insti-  
13 tution follows the laws of the institution?

14 THE CHAIRPERSON: Of the institution?

15 A. Yes.

16 THE CHAIRPERSON: Thank you, Father.

17 In addition to Sunday Services what are your other  
18 duties as chaplain?

19 A. Well, it would be about the same as any -- his, going  
20 around, counseling, holding classes, hearing confessions,  
21 and of course, about, I'd say 80% of your work in a prison  
22 is social work, people are looking more for things outside  
23 of religion than they are for religion.

24 I think religion in these men's lives is at bottom  
25 of the totem pole, even before they came in. And if you talk

1 to these men who have been in other prisons and they will  
2 tell you about all the activities they went through in the  
3 other prisons, whether they were Catholic or Protestant, then  
4 they went out, they're back in another prison and these  
5 religious exercises in prison didn't seem to do them any  
6 good, and when they got out they didn't go back to church,  
7 you see?

8 In other words, when a man gets, commits a crime  
9 and gets into prison, he thinks by going to church that  
10 he's changing himself. But he's not changing himself unless  
11 he changes from within and it's hard for us to judge that.

12 THE CHAIRPERSON: You and Reverend Voth share the  
13 same responsibilities at the women's prison as you do at  
14 the men's?

15 A. Yes.

16 THE CHAIRPERSON: Are there any additional responsi-  
17 bilities that you have found at the women's prison in  
18 addition to the one at the men's prison?

19 A. No, except that ~~544~~ women can give you more trouble than  
20 1,700 men.

21 Q THE CHAIRPERSON: Now, Father Murphy, --

22 DR. GLASS: I'd like to just ask one question here,  
23 if I may, of you two gentlemen.

24 Q (By Dr. Glass.) It wasn't very many years ago when  
25 a Catholic -- Father Murphy and Reverend Voth, I don't know

1 how long you've been associated with the prison, but it was  
2 almost impossible for a minister to enter that prison and  
3 communicate with the prisoners.

4 I'm wondering if you -- I know you don't have the  
5 hassle you used to have, but do you have much trouble with  
6 the administration in getting access to contact, direct  
7 contact with these men?

8 A (By Father Murphy.) In regard to ministers?

9 Q No, I mean in regard to having the privilege of  
10 reaching the men, that's what I mean, it wasn't very many  
11 years ago that this was almost an impossibility around this  
12 prison.

13 A For the priest and the minister in the institution?

14 Q Right.

15 A Oh, I don't believe that, because I was here in 1958  
16 to '63, the old administration, and they had ample oppor-  
17 tunity if they wanted to to see a minister or a priest, I do  
18 don't buy that at all.

19 Q Is that right?

20 A I sure do.

21 Q Well, I must have heard a false story about that.

22 A Well, you heard it --

23 Q I heard it quite a bit.

24 A If you heard it in a prison you heard some con stories.

25 Q I didn't hear it in a prison I heard one minister

1 they had, he wound up on Van Buren at the mental institution.

2 A That was a Catholic Priest but he didn't wind up  
3 from that, he wound up from another cause which I don't  
4 want to make public.

5 DR. GLASS: Very well.

6 Madame Chairman, I have nothing more.

7 I think Reverend Voth wanted also to reply to that.

8 A (By Rev. Voth.) I'd like to reply to that in this  
9 respect, Mr. Cardwell and Mr. Kette and others, in fact,  
10 would get on my tail and would tromp on it mighty hard if I  
11 was not penetrating the security of the deadlock and I'm  
12 talking about even the men that go into the, behind the  
13 steel door, if I did not try in some way or another to make  
14 enough contact with that man so that he knows that he has  
15 the right to visit with me and to talk with me in privacy,  
16 and in confidence, knowing that I have no right to carry out  
17 whatever he tells me back to them.

18 They have gotten on my tail to find out what I'm  
19 doing and made me write reports and they have also spent  
20 a hard time worrying about when we had CB3 as a complete  
21 lockup section. It's changed now, They spent a lot of time  
22 trying to figure out ways to provide those men who could not  
23 attend services to provide them with religious services and  
24 then they changed the policy and so now the need is not that  
25 way.

1 DR. GLASS: Thank you, Reverend Voth and Father  
2 Murphy.

3 That's all.

4 THE CHAIRPERSON: Mr. Williams, you had some ques-  
5 tions?

6 MR. WILLIAMS: Yes.

7 Q (By Mr. Williams.) Reverend Voth and Father Murphy,  
8 I believe earlier we heard that there were some Spanish  
9 masses offered to the Spanish speaking inmates, is that  
10 true?

11 A (By Father Murphy.) Yes, there were on Saturday  
12 evening.

13 Q Okay, also I think we heard that those were dis-  
14 continued. Do you want to give us the reason for that?

15 A Well, we'd have to preface that by what's going on  
16 in the free world today.

17 We understand, you probably read it, that the Catholic  
18 attendance at mass has gone down from 73% to 54%. So we  
19 held these Spanish masses and they were intended solely  
20 for the Mexican Nationals who can not speak any word of  
21 English whatsoever.

22 They are taking English courses at the prison that is  
23 true, but as of now they do not know enough English to  
24 attend the English mass.

25 So, we started out having the Spanish mass. But it



1 wound up that the only ones who were those who were coming  
2 on Sunday morning, and they spent all evening talking down  
3 at the back of the church so that mass meant nothing to  
4 them.

5 And then, when I took the roster from the guard and  
6 found out that few or none of the Spanish, real Spanish  
7 speaking people were not going to mass, I simply cut it out  
8 because these same ones that were going Saturday night were  
9 going Sunday morning.

10 And knowing the ration outside had dropped from 73%  
11 to 44% for one mass, I can't see inmates going to two masses.  
12 I couldn't buy it. So I dropped it. And if there is a need  
13 for a Spanish mass, they will get it, but I'm not going to  
14 have a meeting down at the back while I'm trying to say  
15 mass up at the front.

16 MR. WILLIAMS: Thank you, Father Murphy.

17 A. (By Rev. Voth.) Lest somebody miss this, all Machos  
18 or Chicanos are not Catholic, and we do provide them with  
19 Spanish speaking bibles and Spanish religious literature and  
20 we also find ways and means oftentime through someone who  
21 can speak the language when we find some of the men who can  
22 not read but who would like very much to have some religious  
23 instruction, some of the men themselves are counseled to  
24 help the non-reading persons in the cells to communicate to  
25 them.

1 THE CHAIRPERSON: Thank you.

2 Are there any other questions of these three gentlemen?

3 MS. McCULLAH: Yes, Madame Chairman.

4 This question would be directed to Mr. Kette.

5 Q (By Ms. McCullah.) If there is a request from the  
6 group of men who are non-Christians, in other words, and who  
7 practice the acceptable Christian norms, such as Protestantism  
8 and Catholicism, such as the Jewish faith and some of the  
9 Native American religions, with their consideration,  
10 would their request be considered very seriously?

11 A (By Mr. Kette.) Yes, absolutely.

12 Q Have you had such requests?

13 A No, Ma'am, not to my knowledge. I personally haven't  
14 had any requests from any non-Christian groups to come in.  
15 The only other religious group that I have had any contact  
16 with has been the rabbi. We were in the process of in-  
17 vestigating how we might be able to finance more regular  
18 trips by the rabbi to the institution and we found out that  
19 there just didn't seem to be the kind of money that he  
20 needed to support a regular Jewish program.

21 Q My question was, if a prisoner requested his own  
22 religious faith to come in, even if there's one, would that  
23 be allowed?

24 A We would have to investigate it quite honestly.

25 A (By Rev. Voth.) Do you mean in the sense that say

1 the religious representative of that person, someone from  
2 the outside would be able to meet with that person?

3 Q Upon the request of the prisoner, yes.

4 A If that's been worked out that has been done. For  
5 one thing, is I have been permitted to bring other ministers  
6 in and if a man had a particular request like that, I'm  
7 sure that we could work out some kind of a way that either  
8 a visiting relationship or an instructional relationship  
9 could be worked out.

10 Q I'm particularly interested in the Native American  
11 prison population. Since there is no universal Indian  
12 religion, I'm wondering whether there has been any request  
13 from the Native American group inmates for someone to come  
14 in that will generally give them some religious instructions?

15 A (By Mr. Kette.) I've never been approached.

16 MS. McCULLAH: Thank you.

17 A (By Rev. Voth.) Remember there are 17 Indians in the  
18 place.

19 MS. McCULLAH: That's not the point, I'm just  
20 asking if one of them requested a medicine man or somebody,  
21 you know, of his religious, you know, a religious leader  
22 from his tribe, would that request be honored, that's all  
23 I'm asking?

24 THE CHAIRPERSON: Mr. Muskrat, I think you had a  
25 question?

1 MR. MUSKRAT: Yes, I haven't heard an answer to Ms.  
2 McCullah's last question and I would like to ask the same  
3 question again, of Mr. Kette? Would that --

4 A (By Mr. Kette.) Could you repeat the question?

5 Q (By Mr. Muskrat.) If a Native American prisoner re-  
6 quested a religious leader, would that -- to meet with him  
7 in the prison, would that request be granted? And that can  
8 be a yes or a no.

9 A Oh, sure.

10 Q It would be granted?

11 A Why certainly.

12 MR. MUSKRAT: That's all I wanted to know.

13 A Okay, that's the same answer I gave earlier.

14 MR. MUSKRAT: I think earlier you said you'd have  
15 to consider it. Or you'd investigate it, is that what he  
16 said?

17 A Okay.

18 MR. MUSKRAT: And if that was going to be your  
19 answer I want to know what standard you'd use --

20 A I misinterpreted the earlier question.

21 THE CHAIRPERSON: Excuse me, Mr. Moran, you --

22 MR. MORAN: Yes, I mentioned yesterday I think it  
23 was that we had had preliminary discussions yesterday with  
24 a Mr. Yellow Bank, who contacted my office completely un-  
25 related to these hearings, it's a coincidence, we had one

1 preliminary meeting, he was here earlier, I don't know if  
2 he's here now.

3 Well, this gentleman was with him, he can tell you  
4 exactly where we stand on the thing. I don't even know the  
5 gentleman's name, I'm sorry.

6 But we're looking into it, but it's clear we can not  
7 have 36-hour sessions, it's clear that we can not serve  
8 Peyote, is it, in the prison, Peyote, but with those two  
9 eliminations we're pursuing it.

10 And I'm to meet with the medicine man soon.

11 THE CHAIRPERSON: Ms. McCullah, do you have any other  
12 questions?

13 MS. McCULLAH: No.

14 THE CHAIRPERSON: Are there any further questions of  
15 these three gentlemen?

16 If not, we'd like to thank you all for being here  
17 today.

18 The Chair would now like to call inmates Mike Hogan,  
19 Sam Akins, Marvin Walden and Fred Delvecchio.

20 Gentlemen, if we could have you start with Mr.  
21 Delvecchio -- before we start, no photographs or tape re-  
22 cordings will be made of any of you until we have your per-  
23 mission or unless we don't have any objection, we have had  
24 a request from a newspaper reporter to take your pictures,  
25 is there an objection from any of you?

1 MR. HOGAN: No.

2 MR. AKINS: No.

3 MR. WALDEN: No.

4 MR. DELVECCHIO: No.

5 THE CHAIRPERSON: Thank you.

6 If now we can start with Mr. Delvecchio and give  
7 your name, your occupation and your address, please?

8 MR. DELVECCHIO: Freddy Delvecchio, Freddy Delvecchio,  
9 inmate at the Arizona State Prison.

10 MR. WALDEN: Marvin Walden, inmate, Arizona State  
11 Prison.

12 MR. AKINS: Sam Akins, I work on the yard work detail  
13 at Arizona State Prison.

14 MR. HOGAN: I'm Mike Hogan, I'm an inmate, Arizona  
15 State Prison.

16 THE CHAIRPERSON: Mr. Levis?

17 Q (By Mr. Levis.) Mr. Hogan, as you know, in August  
18 and October of '73, Federal Judge William Copple approved  
19 some new inmate rules, regulations and discipliner programs  
20 for the Arizona State Prison.

21 I just wondered if you received a copy of those rules?

22

23

MIKE HOGAN

24

25

A. (By Mr. Hogan.) Yes, I did.

1 Q When did you receive a copy of those rules?

2 A I received a copy from Lewis and Roca, the law  
3 firm that handled the case immediately after the decision  
4 was handed down, prior to that I received the interim order  
5 that Judge Copple entered, that was about a year ago.

6 Q Do you remember when the inmates received the new  
7 inmate manual that was admitted into the record yesterday?

8 A I believe it was in November.

9 Q And do you know when that went into effect, the  
10 new procedures?

11 A The same time, I believe, November.

12 Q I understand that you're considered a jailhouse  
13 lawyer, I just wondered if you'd give us your academic and  
14 legal training?

15 A I have a Bachelor of Arts Degree from Boston Uni-  
16 versity, I have an LLB through correspondence, Blackstone  
17 School of Law.

18 Q And have you been asked by inmates to represent  
19 them in disciplinary procedures or have you participated  
20 yourself in disciplinary procedures under the new rules?

21 A No, I have not. I've been asked but I don't feel  
22 that the hearings are conducted fairly, I don't think  
23 they're -- I think it's kind of paternalistic-type of thing  
24 so I don't represent them, no.

25 Q Mr. Hogan, is this based on your own observations of

1 the hearings or is it based on just what other inmates  
2 tell you?

3 A Well, would you like me to get into my own, my own  
4 experience with the boards or --

5 Q Yes, as long as, again I just must explain that for  
6 our procedures, if you give any testimony which might  
7 defame or degrade any individuals we'll have to ask you to  
8 stop and if you feel it's substantial and the Chair so  
9 recognizes, we will have you in a closed session.

10 A All right. All right.

11 Q Let me just point out, for your information, and the  
12 rest of the panel, that we're concerned generally with the  
13 operation of disciplinary procedures under the new rules,  
14 and how they work and how they're supposed to work and if  
15 you have any personal knowledge that they aren't working  
16 correctly, we'd like to know that, but again we're con-  
17 cerned, I think, with your own personal knowledge and the  
18 general background of the rules.

19 A All right. I can answer that question without saying  
20 anything that would hurt anybody personally.

21 First of all, I have had, through personal experience,  
22 contact with the committees.

23 Q You mean the disciplinary committee?

24 A No, not particularly the disciplinary committee, and  
25 this is what I have to explain.



1           A number of instances inmates who are suspected of  
2 dealing or suspected of revolutionary activity, but they  
3 don't have any proof, they will not bring them before the  
4 disciplinary committee.

5           Q     Who is they?

6           A     The administration.

7           Instead, they will bring them before the classifica-  
8 tion committee or the reclassification committee.

9           Q     Before we get any further, why don't we just explain  
10 briefly, for the Committee, your understanding of the  
11 disciplinary procedures when a person is supposed to go  
12 before the disciplinary board?

13          A     A person, he's supposed to go before the disciplinary  
14 board when he's charged with violation that will result in  
15 a loss of his two for one time and other purposes.

16          Q     As I understand it, a denial of two for one time  
17 or loss of two for one time? The difference I'd like to  
18 get out is whether the disciplinary board puts a person,  
19 let's say isolation, and for that period the person is  
20 denied two for one time or whether the person goes before  
21 the reclassification committee and is reclassified to a  
22 position where he is no longer able to earn two for one time,  
23 is there a distinction in your mind?

24          A     There's a distinction in the law, and consequently  
25 there's one in my mind. But if I could be responsive to

1 your last question, the question was is Copple being imple-  
2 mented as it should be, is the decision that Judge Copple  
3 rendered being implemented properly or is it being circum-  
4 vented and my position is it's being circumvented, and I  
5 can document that.

6 I have spent time in the adjustment center during  
7 the period that the interim Copple decision was in effect,  
8 I spent almost seven months in the adjustment center and  
9 never appeared before the disciplinary committee, I appeared  
10 instead before a reclassification committee.

11 Q Now, it's my understanding under the new Copple  
12 orders, the new rules, that this went into effect in  
13 November.

14 A Right.

15 Q So you're talking about time that you spent under the  
16 old rules or the interim rules?

17 A The interim rules, correct. And the interim rules  
18 mandated essentially the same procedure that the final order  
19 mandated.

20 Q Since the new rules have been implemented, have you  
21 experienced any loss of two for one time or spent time which  
22 you feel circumvented the Copple decision?

23 A I was in the adjustment center when the final Copple  
24 order was entered.

25 Q For the information of the Committee, could you explain

1 what the adjustment center is?

2 A. The adjustment center is a maximum security section  
3 located in Cell Block Number 3, within the Arizona State  
4 Prison. The inmates, there confined, for what the adminis-  
5 tration euphemistically calls care and treatment. Care  
6 and treatment consists of being locked in your cell 24  
7 hours a day, seven days a week.

8 Isolated from the rest of the prison population.

9 Q. The question I have, I've reviewed the new rules  
10 and procedures, and I see you're, the question you have is  
11 concerned with whether the rules are possibly being circum-  
12 vented but it's your contention that persons are being  
13 written up for rule violation and then not being sent to  
14 the disciplinary committee or that they do not write up a  
15 person for rule violation but instead a person is sent,  
16 instead, to the reclassification committee?

17 A. Right.

18 Q. For the purpose of being sent to the adjustment  
19 center?

20 A. Right.

21 For example, if they do, if they do find that someone  
22 has contraband in his possession, they will write him up for  
23 possession of contraband and take him before the committee.

24 Q. Which committee?

25 A. Disciplinary committee, but if rumor has it that an

1 individual is dealing in contraband or if rumor has it or  
2 they believe on information they receive from informers  
3 that someone is dealing in contraband but they can't prove  
4 it, they will lock him up in the adjustment center, for  
5 an indeterminate period of time, I might add.

6 Q It's my understanding that under the Copple decision,  
7 which again we're talking about the new inmate manual that  
8 a person can be written up, it can be dismissed informally  
9 by the warden or someone who reports to the warden, or a  
10 person can go before the disciplinary committee, the disci-  
11 plinary committee can find a person innocent or guilty,  
12 no matter if they find him innocent or guilty, they can  
13 recommend that that person be sent to the reclassification  
14 committee, is that correct?

15 A That's correct..

16 Q And then the reclassification committee can send the  
17 person, you're saying, to the adjustment center for care  
18 and treatment?

19 A That's correct.

20 Q And it's your contention that you feel this circum-  
21 vents the spirit of the Copple decision?

22 A What you say is essentially correct and I agree  
23 with your conclusion, but in addition to that there are inci-  
24 dents where people are not brought before the discipline  
25 committee, they are simply locked up 30 days or 60 days after

1 they're locked up they may or may not an appearance before  
2 the reclassification committee or they may get a slip  
3 like this if I may, 28059, which is my number from the re-  
4 classification committee.

5 "Please be advised that this memorandum is the written  
6 committee decision. After review of your record, you will  
7 be classified to CB3, maximum security, no two for one, for  
8 purposes of care and treatment. The reason for this de-  
9 cision is, unfavorable institutional adjustment and un-  
10 favorable attitude:"

11 Q Now, it's my understanding that --

12 A Which is not a rule violation or, you know, certainly  
13 not specifics.

14 THE CHAIRPERSON: Excuse me, Mr. Hogan, what's the  
15 date on that?

16 A Date is 8/13/73.

17 MR. LEVIS: You're saying that's when the interim  
18 rules were in effect?

19 A Date is 8/13/73.

20 Q (By Mr. Levis.) It's my understanding the new rules  
21 went in effect in November that you can be sent to the re-  
22 classification committee and then you can be sent to care and  
23 treatment for, in a sense, 30-day intervals where your  
24 position is supposed to be reviewed, is that not correct?

25 A That's correct.

1 Q And being reclassified by the reclassification  
2 committee could result in the loss of two for one from  
3 that time on because of the reclassification?

4 A Loss of the opportunity to earn two for one, right.

5 Q And you're saying again this, the question that  
6 I have, that the Copple decision in front of me, and it's  
7 my understanding that the disciplinary committee in section  
8 2, states that the committee, the disciplinary committee  
9 will appear where a prisoner faces the following sanctions  
10 or penalties, denial of two for one time credits under the  
11 provisions of Arizona Revised Statutes 31-252.

12 A Right.

13 Q And you're saying there's no distinction between  
14 denial of two for one and loss of two for one because  
15 they're both prospective?

16 A Right.

17 Q Even though the Copple rules do provide for the disci-  
18 plinary committee, no matter if they find a person innocent  
19 or guilty, to be recommended to go before the reclassification  
20 committee which can reclassify you to position again where  
21 you will lose two for one?

22 A Well, the problem of reclassifying someone to a  
23 position where he can lose two for one, is essentially a  
24 disciplinary thing, you don't sentence a man to another 30  
25 days on the prison sentence or another six months on his prison

1 sentence or a number of years on his prison sentence, unless  
2 you're trying to punish him, you're not giving him care and  
3 treatment.

4 Q Is it not also true that the law states that, and  
5 again this I think is what the law states that only persons  
6 in trust, in jobs of trust get two for one?

7 A No, the law has since been modified, Horn versus  
8 Rogers, I don't know the citation off-hand, Horn versus  
9 Rogers, Watson versus Industrial Commission, Whit versus  
10 State of Arizona, there's a number of cases that have since  
11 modified that to the statute that you're referring to,  
12 everyone who is engaged in any job, anyone who is in the  
13 state hospital, or in a hospital for treatment, if he's a  
14 state prisoner is entitled to statutory deducts from his  
15 sentence and in Arizona when a judge sentences you to a  
16 term of commitment in a state prison he takes into consider-  
17 ation the fact that it's almost a general rule that every  
18 inmate does get these deductions, so as a consequence --

19 Q This is based on your experience?

20 A This is based on my experience, as a consequence, a  
21 judge who is inclined to give you a five-year sentence, know-  
22 ing that you automatically get two for one credits, gives you  
23 a ten-year sentence or if he was inclined to give you a 15-  
24 year sentence, will give you a 30 years sentence.

25 Q It's my concern, under the rules, and I think you

1 ~~voiced~~ this concern, that under the new Copple decision  
2 that a person can be possibly sent to reclassification  
3 without first going to the disciplinary committee, have  
4 you ever observed this happen?

5 A Yes.

6 Q Under the new rules?

7 A Under the interim rules, I can't say under the new  
8 rules from my personal experience, no.

9 Q Now, did the, to the best of your knowledge, did the  
10 interim rules have the same provision for the disciplinary  
11 committee having the power to deny two for one, referring  
12 you to the reclassification committee?

13 A Yes. Matter of fact, the interim rules are almost  
14 identical except for the provision of the amount of time  
15 you would spend in disciplinary isolation.

16 Q As I understand it, under the new rules, it's 15  
17 days for, up to 15 days for one offense and up to 30 days  
18 for multiple offenses?

19 A Right, and so what they do, in many cases, is make  
20 one offense into two offenses so they can give you the en-  
21 hanced punishment.

22 Q You're saying that it's your opinion that inmates  
23 are charged with two charges for what you could consider  
24 one offense?

25 A Right, Sam will testify to that, to his own experience,



1 he's got disciplinary court that indicates that.

2           Could I add one thing before you get to your next  
3 question, that comes to mind at this time?

4           Lest anybody think that this is my own personal  
5 opinion, or I have any animosity to anyone, I would like to  
6 submit, Mr. Muskrat, is that his name? said we could bring  
7 papers and submit documents. I have a document here from  
8 John P. Frank of the law firm, Lewis and Roca, and it's a  
9 motion to Judge Copple's court and I'll just quote briefly.

10           "The undersigned counsel respectfully removes the  
11 motion, previously made orally and not much discussed, for  
12 replacement of counsel. To have the duty of enforcing the  
13 order of this court in the matter of Yapnik (Phonetic) and  
14 Taylor --"

15           Q. Yapnik and Taylor is the case that resulted in the  
16 new rules, is that correct?

17           A. Right.

18           "The impression is in fact going all over the United  
19 States that the order of this court is simply a mockery, it  
20 is evaded and not complied with. And while we take no per-  
21 sonal position as to the rightness or wrongness of this  
22 assertion, we do demonstrate its existence by the attached  
23 letters, Exhibit A, B and C." *and I would*

24           And I would like to submit this evidence.

25           Q. When was this filed?

*I R*

1           A     It was filed the 22nd day of August, so I must be  
2 mistaken as to the date the final order went into effect,  
3 it was probably a couple months earlier than I originally  
4 said.

5           THE CHAIRPERSON: Mr. Hogan, that will be marked and  
6 made a part of the permanent record.

7           Q     (By Rep. Guerrero.) I have one question.

8           Mr. Hogan, did you state earlier that you were cited  
9 for an infraction and you were referred to the, what do  
10 you call it, the adjustment center?

11          A     That's correct.

12           I was not cited for an infraction, however.

13          Q     Well, what was the reason for you being referred to  
14 the adjustment center?

15          A     The reason, as I quoted from this and this is another  
16 exhibit, the reason for this decision is your unfavorable  
17 institutional adjustment and your unfavorable attitude,  
18 this is signed by Captain R. Sorn (Phonetic.)

19          Q     You spent, did I understand you correctly to state  
20 that you spent seven months there?

21          A     I was locked up on May 24th and I was released sometime  
22 in November.

23          Q     Now, did they ever find you guilty of any infraction  
24 of the rules or whatever you were cited for?

25          A     I was initially locked up for investigation of

1 criminal offense, subsequently the criminal offense was  
2 resolved and I was taken before the classification committee.

3 When I went before the classification committee, I  
4 gave them the information regarding the criminal offense  
5 and what the disposition had been, and they referred me  
6 back to the adjustment center for an additional 30-day  
7 period because of what they considered my plans.

8 Q What constitutes unfavorable attitude, in your  
9 opinion?

10 A Well, I think this is a subjective thing, I didn't  
11 objectively do anything that I thought was -- merited that  
12 particular designation.

13 Q Could I see that?

14 A Sure.

15 REP. GUERRERO: That concludes my remarks at this  
16 point.

17 THE CHAIRPERSON: Thank you, Mr. Guerrero,  
18 Mr. Levis?

19 Q (By Mr. Levis.) Mr. Hogan, we've been talking about  
20 good time and two for one time and I also understand there's  
21 something called copper time, I wonder if you could define  
22 those terms for the Committee?

23 A Both copper time and two for one time are generally  
24 known as good time. One is ARS31-251, the other is ARS31-252.  
25 Copper time is a good behavior time that is deducted from your

1 maximum sentence, two years from the first year --

2 Q Two months?

3 A Excuse me, two months for the first year, two months  
4 for the second year, four months, five months and so on.

5 Two for one time is time that is given for work,  
6 generally speaking, and you get one day for each day at  
7 work. Or each day of good behavior, if you're not able  
8 to work.

9 Q Now, it's my understanding that all inmates who are  
10 working get two for one time and you said inmates in  
11 the psychiatric ward get two for one time?

12 A Right. Inmates at the state hospital get two for one  
13 time, inmates unable to work get two for one time, Horn  
14 versus Rogers, Watson versus the Industrial Commission,  
15 both said two for one time was a matter of statutory right  
16 as the supreme court interpreted the statute at that  
17 particular time.

18 Subsequently, Copple's decision has said that denial  
19 of the right to earn two for one time can only come through  
20 an action of the disciplinary committee.

21 Q That's what we were talking about before.

22 A Right.

23 Q Again we get into the semantics between denial and  
24 loss and we will have other witnesses who will discuss that.

25 The question I have, then, is that besides disciplinary

1 procedures, are there any other inmates who do not get  
2 two for one time, do inmates in protective lockup for their  
3 own protection, lose two for one time when they request it?

4 A It's been my experience that they do lose two for  
5 one time, that if they subsequently come out on the yard  
6 and express the desire to go back into population the  
7 two for one time is backdated in most circumstances.

8 Q Under the Copple decision, it's my understanding that  
9 the inmate who's found guilty can receive from a verbal  
10 reprimand to up to 15 days for one offense and 30 days for  
11 multiple offenses, is that correct?

12 A Yes.

13 Q And once in isolation an inmate can have showers  
14 three times a week and takes his exercise for an hour  
15 three times a week, except in extreme circumstances, is  
16 that correct?

17 A That's the way the order reads, correct.

18 Q What are the circumstances when an inmate does not  
19 get exercise three times a week, or showers three times a  
20 week?

21 A Circumstances, I suppose would be the excuse that  
22 would be offered, would be that they were understaffed on  
23 that particular evening.

24 Q As I recall, the rules says that if the --

25 A Let me add this, I should say this, that most line

1 officers act in good faith to comply with the Copple de-  
2 cision, but there is a definite lack of good faith in  
3 the way it's implemented, as far as the classification  
4 committee is concerned.

5 Q Because you feel that it's being circumvented?

6 A Correct.

7 Q Mr. Walden, could you tell us about what section of  
8 the Arizona State Prison you are assigned to? I under-  
9 stand you're in lockup?

10  
11  
12 MARVIN WALDEN

13  
14 A (By Mr. Walden.) I was in lockup for just under 13  
15 months, I entered the general population the 25th of January.

16 Q Now, are you in protective lockup at your request  
17 or lockup for some other reason?

18 A I was on lockup at my own request. Not for protective  
19 reasons.

20 Q So, you did not get two for one time during that  
21 period?

22 A I got two for one time until the 10th of July, when  
23 my two for one time was taken away, I was taken before the  
24 reclassification committee and was told that my two for one  
25 would be taken, that I would be reclassified within 30 days.

1           The next time I went before the reclassification  
2 committee was on the 12th of December, and rather than a  
3 30-day interval, they were talking in terms of 60 days, 90  
4 days interval, and then I was called out for reclassifica-  
5 tion on the 11th of January, at which time I agreed to enter  
6 general population.

7           I subsequently entered general population on the 25th  
8 of January, received all my back two for one time that had  
9 been taken.

10       Q     You've received all your back two for one time?

11       A     Yes.

12       Q     Now, could you describe the difference between lockup  
13 and isolation? For the Committee?

14       A     Well, prior to the disturbance last June, there  
15 was more than one type of lockup at the prison.

16       Q     Could we go into the period after the disturbance?  
17 Concentrating on the new administration?

18       A     All right.

19           After the disturbance and until the end of October,  
20 all lockup was the same, inmates locked up for -- awaiting  
21 disciplinary court, inmates locked for administrative  
22 segregation or for administrative convenience, were placed  
23 in the same vicinity and close proximity to inmates that  
24 were locked up on their own request, inmates locked up on  
25 protective custody, & u. on protective custody.

1           The difference between that and being locked up in  
2 isolation is the isolation is the hole.

3           Q     Now, as I understand it, in lockup it's one man  
4 to a cell, is that correct?

5           A     It was not until in January of this year.

6           Q     What kind of rights does a man have in lockup, does  
7 he have the right to go out and exercise every day or shower  
8 every day or what?

9           A     According to Copple's order, the man has the right  
10 to three meals a day, has a right to three showers a week,  
11 minimum, and the right to exercise three times a week for a  
12 period of one hour each time, outside of the cell.

13           This is on paper and it was not implemented any of the  
14 time that I was on lockup, between June and January.

15           Q     Now, it's my understanding at times, that the three  
16 showers a week and exercise three times a week, does not  
17 have to be followed when, I think the decision talks about  
18 when the administration feels that they're threats to the  
19 security, or words such as that, is that correct?

20           A     That is correct.

21           Q     And those were the reasons why you did not get  
22 showers three times a week or exercise three times a week,  
23 to the best of your knowledge? Is that the reason they  
24 gave you, I mean? Excuse me.

25           A     No reason was given.



1 Q To the best of your knowledge.

2 A To anyone, for them giving a reason.

3 Q Were you denied showers or you just weren't given  
4 them three times a week?

5 A I, personally, was just not given showers three  
6 times a week, I do know of people who were denied showers  
7 at times when other inmates were showering around them, and  
8 next to me, this type of situation. Also, the same pertains  
9 to exercise.

10 Q What kind of law library and library is available  
11 for inmates in lockup?

12 A There was an attempt to implement a procedure whereby  
13 an inmate on lockup could receive a book from the regular  
14 library by submitting a list including the book's title  
15 and author. This was done away with because of probably  
16 inconvenience, to the best of my knowledge, as far

17 As far as law books go, there is a law library so-  
18 called, that was located in Cell Block 3, and consisted only  
19 of the volumes of the Arizona Revised Statutes and if an  
20 inmate had need of a court ruling or any law volume or  
21 material other than the Arizona Revised Statutes, it had  
22 to be brought by the counselor of the building at the time,  
23 and at no time did I receive any of the material, nor do I  
24 know of any other inmate that received any of the material,  
25 including the Arizona Revised Statutes.

1 Q Even if you requested the material?

2 A Even if requested, the only other way we can get any  
3 court rulings and materials in was to have it sent in by  
4 private attorneys.

5 Q Did the inmates in Cell Block 3, which at that time  
6 was lockup, they have access to attorneys or jailhouse  
7 lawyers?

8 A No, sir.

9 Q Is this different from the general population?

10 A In the general population it was somewhat easier to  
11 get to a jailhouse lawyer because of the more freedom of  
12 movement an inmate has. Inmates on lockup are locked up,  
13 and they do not have freedom of movement to get to a jail-  
14 house lawyer, all jailhouse lawyers, to my knowledge, were  
15 removed from CB3 a memo was issued from the warden --

16 Q I think I've a copy of that, dated October 24th?

17 A Yes, sir, which did forbid inmate assistance in the  
18 preparation or filing or documentation of any type of legal  
19 material between inmates on lockup and CB3.

20 Q Now, as I understand this memo, which we should have  
21 admitted into the record, Madame Chairman.

22 THE CHAIRPERSON: Yes, we'll have that numbered and  
23 entered.

24 Q (By Mr. Levis.) Okay, states inmates from Cell  
25 Block 3, as I understand, this memo was from the Superintendent

1 Harold Cardwell, dated October 24th, to the inmate popu-  
2 lation, inmates from Cell Block 3 desiring legal assistance  
3 for disciplinary court, may ask for an inmate from the  
4 general population to assist him.

5 Are you saying the general population are those in-  
6 mates outside of CB3?

7 A. Yes.

8 Q Now, how would an inmate in lockup in CB3, at that  
9 time, contact an inmate in the general population?

10 A. I came through that situation personally. And named  
11 an inmate in general population to represent me before an  
12 action before the disciplinary committee. His name was  
13 given, he was not permitted to see me, when he came back  
14 to Cell Block 3 to see me, was not permitted to see me, I  
15 was subsequently, after some belligerence on my part, per-  
16 mitted to see this inmate for a period not exceeding ten  
17 minutes.

18 Prior to going to trial before the disciplinary  
19 committee, and this was the sum total of our conference on  
20 the violation.

21 Q Now, it's my understanding from this memo, also,  
22 that if you had any other questions regarding legal assis-  
23 tance, you're supposed to contact the post-conviction clinic  
24 at the University of Arizona or ask for assistance from the  
25 federal court, is that correct?

1           A.     That is correct.

2                     Could I make some comment on that?

3           Q.     We will have Mr. Rinaldi from the post-conviction  
4 clinic to testify, but if you'd like to make a short com-  
5 ment, that's fine.

6           A.     All right.

7                     Paragraph 1 on that refers to assistance from the  
8 post-conviction legal assistance clinic, and I have corres-  
9 ponded with Mr. Rinaldi, director of the clinic prior to  
10 and after the issuance date of the memo, I've possessed  
11 several pieces of written correspondence which have been  
12 issued to your office in Denver, by certified mail, wherein  
13 Mr. Rinaldi states that it had been in the past and remains  
14 at this present time, the policy of the clinic not to  
15 assist or advise inmates at the Arizona State Prison in  
16 matters pertaining to an appeal of any kind and it has been  
17 and remains to be the policy of the clinic at this time  
18 not to assist or advise inmates at the Arizona State Prison  
19 in matters of legal action where prison administrative  
20 staff members are involved or are respondents in an action,  
21 except in cases where the clinic or its effectiveness is  
22 directly involved.

23                     It's been further stated by Mr. Rinaldi that it has  
24 been in the past and remains his policy at this present time  
25 not to assist any inmate represented by an attorney prior to

1 the public defender in any action pending in any court.

2           Going on to the part of the memo handed down from  
3 Harold Cardwell pertaining to assistance from the federal  
4 court, it's well-known that the clerk of federal court is  
5 able to assist inmates only in the matter of putting the  
6 document in a proper form and in the filing procedures, not  
7 in the research, not in the compiling of the complaint.

8           Q     Mr. Walden and Mr. Hogan, what do you think should  
9 be done to improve the procedures both for legal services  
10 and to insure that the disciplinary procedures is as fair  
11 as possible?

12           I think, Mr. Hogan, you mentioned to me in our  
13 interview the possibility of an independent ombudsman. I  
14 wonder if you'd go into that?

15           A     (By Mr. Hogan.) Yes, I did, I wonder if I could say  
16 one thing as to the status of the law in Arizona?

17           Q     Make it very short.

18           A     I understand that someone from the attorney general's  
19 office testified yesterday, I'd just like to quote from ARS  
20 13-1653, a sentence of imprisonment in the state prison for  
21 any term less than life suspends the civil rights of the  
22 person so sentenced and forfeits all public offices and  
23 private trusts, authorities and power during such imprison-  
24 ment.

25           A person sentenced to imprisonment in the State Prison

1 of Arizona for life is thereafter deemed civilly dead.

2 And I have here a document where the attorney general  
3 very lucidly and forcibly argued that this statute should  
4 not be repealed and that it was not unconstitutional and  
5 that it did not deprive inmates of equal protection of the  
6 law or access to the courts.

7 And I think the people should understand that this  
8 is the status of the law in Arizona. That you can not  
9 file an action to clear title on your property, you can not  
10 file an action to divorce your wife, you can not file an  
11 action for trespass if someone happens to be on your  
12 property out in the street, you can not protect your wife  
13 or your family through the Arizona Courts.

14 The only access that we have to the courts as far  
15 as civil actions are concerned, are civil rights complaints  
16 filed in the U.S. Federal District Court.

17 Q. You're talking of reporting through USC1983, in  
18 most cases?

19 A. Correct, correct.

20 Q. Now, again getting into the ombudsman?

21 A. I did think that was a good idea, number one, because  
22 it's difficult for inmates, even under ideal conditions, to  
23 have access to an individual, call him a jailhouse lawyer,  
24 whatever you want to call him. Any individual capable of  
25 giving counseling, it is difficult even under ideal conditions

1 for inmates to have access to people who are knowledgeable  
2 in these areas, number one. And number two, it's difficult  
3 to finance and maintain an adequate law library. It's  
4 difficult to keep a law library current, it's difficult  
5 to allow inmates access to it.

6 Q You explained the law library at the institution  
7 as the general law library?

8 A We have a law library at the Arizona State Institution,  
9 it's relatively new, it's been established since Mr. Moran  
10 took office, it contains the corpus juris, it contains  
11 Udall's evidence, it contains all the Arizona Statutes, con-  
12 tains the supreme court reports and the Arizona reports with  
13 the exception of volume 190 and the exception of Arizona  
14 Appeals reports 19, which are the '73 cases.

15 It's a fairly adequate library if it were kept current,  
16 it's not kept current because you don't have the recent  
17 reports, you don't have the weekly gazette, you don't have  
18 the criminal law reports, and you don't know what cases have  
19 been decided over the past year.

20 Well, the attorney general on the other hand, who is  
21 arguing vehemently against you, has all these cases at his  
22 disposal, so you -- but I thought an ombudsman would be a  
23 good idea, number one, because he could screen the frivolous  
24 cases, there are a number of them, if you tell someone that  
25 his claim is frivolous, he, you know, he says, well, who are

1 you? You know, you're an inmate just like me.

2 And he will go ahead and try to hack through a  
3 civil rights claim himself. And the court is just deluged  
4 with frivolous complaints, I'm aware of this.

5 The few that are good, that do have merit, I try to  
6 direct them if I can, to law firms that might want to handle  
7 them, but law firms like Lewis and Roca, they spent almost  
8 two years adjudicating this Yapnik-Taylor decision, I  
9 don't know how much it cost them, but I know Sally Neely,  
10 John Frank, these people were involved in it and it  
11 probably cost the law firm, \$30,000.00, \$40,000.00, I don't  
12 know how much, but I imagine it was somewhere in that  
13 area. And there's no compensation for attorneys in these  
14 areas.

15 Q Who do you think should appoint this ombudsman,  
16 should it be the federal court?

17 A Yes.

18 Q You think like Judge Copple or Judge Muecke, or --

19 A Right.

20 Q -- be in charge of doing it?

21 A And I think what it would accomplish, number one,  
22 it would do away with probably 98% of the complaints. An  
23 ombudsman, if there was merit to the complaints, this man,  
24 lost his TV in a shakedown or this man had some property  
25 destroyed, the ombudsman could go to Mr. Moran and say, Mr.



1 Moran, these are the circumstances, this is how it occurred,  
2 I've investigated, I know the claim had merit. I think  
3 Mr. Moran approached that way would probably grant it.

4 It would eliminate the lengthy and costly adjudication  
5 of these matters in the courts.

6 Q Thank you.

7 Mr. Walden, I wonder if you go the same, I also  
8 understand there is an appeals officer appointed by the  
9 department of corrections to take up the appeals of disci-  
10 plinary committee and I wondered what your feelings were  
11 on that position and whether you feel as Mr. Hogan does,  
12 that maybe there should be an ombudsman, either at that  
13 level or higher level or even at the lower level?

14 A (By Mr. Walden.) Well, I've been asked by inmates to  
15 represent them before the disciplinary court. For the  
16 same reasons as Mr. Hogan gave. There is an appeal system  
17 set up as you mentioned to the disciplinary court, however  
18 it's been my experience that appeals are not often granted  
19 and when they are granted, the guilt is again placed with  
20 a stronger sentence unless the maximum sentence had already  
21 been imposed at that time. COTTON FIBER

22 I think that the next step after an appeal should be  
23 possibly a further appeal along with a certificate of  
24 probable cause directly into the courts. I think that pos-  
25 sibly Mr. Hogan has had experience also, the use of admin-

1 istrative convenience in taking an inmate to lockup,  
2 should have an appeal officer provided by somebody and that  
3 a more definite reason and date for lockup should be  
4 stated and that possibly another step above the appeal  
5 officer at this time, could be into the court.

6 Q You mean into the federal court?

7 A Yes.

8 Q It's also my understanding that the Yapnik-Taylor  
9 case was dismissed, based on the settlement with the rules,  
10 is that correct?

11 A (By Mr. Hogan.) It was based on stipulation, both  
12 sides stipulate --

13 Q So the case is not open at this time?

14 A No.

15 I was subsequently added as a party plaintiff and I  
16 instructed Lewis and Roca we didn't intend to appeal, that  
17 I thought the best course was for him to try to find a way  
18 to see that it was implemented as it was.

19 Q So, if you have a complaint under the new rules,  
20 you'll have to file another action in court?

21 A As it is now, right.

22 Q (By Mr. Zah.) Mr. Hogan, Mr. Walden, I was wondering,  
23 you alluded to the question of, let's say having the  
24 attorney general's office or someone on the other side,  
25 you know, having access to all the books or the new supplement,

1 or the new cases as opposed to you not having, you know,  
2 that much.

3 Have you ever requested, you know, perhaps to get some  
4 of these new cases or to get just as much information as,  
5 you know, say the other party would and be denied?

6 A. I didn't, personally, but the clerk at the law  
7 library asked the deputy attorney general on several occasions  
8 to look into this matter, I know that it was looked into.  
9 And I know that law books were ordered and that subsequently  
10 we got law books, but not volume 19 of the Arizona Appeals  
11 Reports and not volume 109 of the Arizona Supreme Court  
12 Reports, and these were the 1973 cases that the attorney  
13 general would consistently cite because this is a state  
14 where they go by the Arizona court precedents.

15 Q. But you don't have that in your law library here?

16 A. No.

17 Q. Mr. Walden, have you ever requested such a thing  
18 and been denied?

19 A. (By Mr. Walden.) I have requested to have some of  
20 these items supplied to me or to the prison library from  
21 the office of the attorney general, and have a written reply  
22 from him stating that it's not his obligation to supply the  
23 law library at the prison, and this written information has  
24 been supplied to the Commission, sent last December by  
25 certified mail.

1           Also~~s~~f pointed out in a case decision in a federal  
2 court in California, where the court held at that time,  
3 that if a prison law library did not have sufficient  
4 quantities of legal materials it was the duty of the  
5 prison administration to run down the materials and provide  
6 them.

7           In addition to all of this, the problems involved with  
8 the officers handling lockup, they're not trained in locating  
9 court ruling or records or decisions, consequently, if you  
10 give them court ruling and its location, and a law volume  
11 or any legal material, they're lost, they don't know what  
12 to do or who to go to to find it, and when the person gets  
13 lost or confused, they just don't try.

14       Q     I guess the reason why I was saying that is that the  
15 day I was visiting the facilities, you know, I went to the  
16 library and I looked at the law library, and it was made  
17 very clear to me that all the inmates had to do was request,  
18 you know, certain books and they were ordered and within  
19 certain length of time, you know, that they would be there  
20 for your use, that was the only reason why I, you know, asked.

21       A     I've a list of dates of denials and the officers  
22 giving the denials.

23       Q     The other question that I wanted to ask, was, Mr.  
24 Hogan, you were talking about, you know, a legal advocate or  
25 ombudsman. You said that he could screen many of these

1 cases, 98% of these cases that he would screen, whether  
2 the case really has merits or whathaveyou.

3           Were you talking in terms of disciplinary proceedings  
4 within the facility or --

5           A.     (By Mr. Hogan.) No, not primarily, I was talking  
6 in terms of things, for example, an inmate's cell is shaken  
7 down and a TV is knocked off the shelf or a fan is broken  
8 or his personal papers are seized and disappear somewhere  
9 along the lines, or he's -- well, he's exposed to brutality  
10 or he feels he's exposed to some brutality. These type of  
11 things could be settled at an administrative level if  
12 there were an individual who was more or less an inter-  
13 mediary.

14           Do you know what I mean? Instead of taking them to  
15 federal court, instead of having them adjudicated, which  
16 is an expensive and lengthy process and ultimately no one's  
17 satisfied by the outcome.

18           Q     Do you know of an organization called Arizona Citizens'  
19 Committee on Prison?

20           A.     No, I'm not familiar with them.

21           Q     Do you, Mr. Walden?

22           A.     (By Mr. Walden.) No.

23           Q     Well, yesterday, Mr. Anderson, I guess who is the  
24 head of that organization, testified that they are working  
25 on a panel of attorneys from the various law firms in the

1 State of Arizona where some of the lawyers will be donating  
2 or has made a commitment to donate their time to work,  
3 let's say on cases, civil rights cases within the prison  
4 system.

5 And I understand that they now have something like,  
6 you know, 30 lawyers lined up, and I was just wondering if  
7 that organization has been organized for a year or six  
8 months or even two months, how come you don't know about it,  
9 because you're saying now that you need people or organiza-  
10 tions like that to get the basic information that you might  
11 need to pursue some of these cases.

12 A. (By Mr. Hogan.) That's right, and John P. Frank and  
13 Sally Neely of Lewis and Roca could have used a little help  
14 in handling some of the matters, I don't know where they  
15 were then. I've never heard of the organization and I've  
16 never heard of this thing that you're describing.

17 It's a good idea, and I'm all for it, but the news  
18 has not leaked down to Florence yet.

19 Q. (By Mr. Levis.) Mr. Delvecchio, we understand that  
20 you've been on lockup status, is that correct?  
21

22  
23 FRED DELVECCHIO  
24

25 A. (By Mr. Delvecchio.) Yes.

1 Q How long have you been on lockup status?

2 A Close to two years.

3 Q And would you tell us why you were placed on lockup  
4 status?

5 THE CHAIRPERSON: Mr. Delvecchio, would you speak  
6 into the microphone, please, so the Court Reporter can  
7 hear what's being said?

8 A I imagine that the administration has various reasons  
9 in my file why I've been placed in segregation, subjected  
10 to various forms of isolation, but I believe the main  
11 reason I've been locked up is because I've been unwilling  
12 to accept a lot of the conditions that exist in the state  
13 prison.

14 Q Now, did you take the classification test when you  
15 were first incarcerated in the state prison?

16 A Was I taken for --

17 Q No, did you take -- I understand that when you enter  
18 the state prison they give you some tests. You know, the  
19 diagnostic center. And did you take those tests when you  
20 were admitted into the state prison?

21 A No, I didn't.

22 Q Why didn't you take those tests?

23 A Well, at the time I didn't feel that it was necessary  
24 and I didn't take these tests, and because I didn't take  
25 these tests, I was arbitrarily placed on my record as below

1 par and this has stopped me from being able to enter any  
2 vocational schools or training.

3 Q Have you entered into any educational training at all  
4 while you've been on lockup?

5 A The night college class.

6 Q For what?

7 A Sociology and English.

8 Q You're taking those now?

9 A No, not at present.

10 Q Excuse me?

11 A Not at present, no.

12 Q You did take these at one time?

13 A Well, I wasn't on the yard long enough to continue  
14 with them, but I have continued my studies.

15 Q What do you do when you're in lockup, do you spend  
16 all day in the cell, or what happens?

17 A Well, you're kept in your cell 24 hours a day, it  
18 depends on the, if you have a TV or radio, you can -- you  
19 don't do nothing.

20 Q Have you received two for one time during lockup?

21 A No.

22 Q Do you receive any kind of care or treatment while  
23 you're in lockup?

24 A Well, this is the -- this is the farce, this ridicu-  
25 lous title of care and treatment, that they like to emphasize



1 on it, there is no care and treatment whatsoever in segre-  
2 gation, isolation, any kind of administrative lockup that  
3 they have, there is no care and treatment.

4 Q You mean you spend all day in your cell?

5 A That's right.

6 Q And do you ever go before the reclassification  
7 committee?

8 A Well, this seven months that I just finished in  
9 segregation, 90 days in isolation, I have went to the  
10 classification committee two times, when I first entered  
11 and this last time when I was released, four days ago. And  
12 I haven't seen the committee but two times in those five  
13 months -- seven months.

14 THE CHAIRPERSON: Are you back in the main yard now,  
15 Mr. Delvecchio?

16 A Yes, I am.

17 Q (By Mr. Levis.) You're not in lockup right now?

18 A No.

19 Q You're not?

20 A No, I'm not. I was released Monday.

21 Q Excuse me?

22 A I was released Monday.

23 Q Now, in the last eight months, how much time --

24 THE CHAIRPERSON: Mr. Levis, excuse me, Mr. Moran,  
25 did you wish to make a comment?

1 MR. MORAN: Yes, could I just ask one thing?

2 I believe Mr. Delvecchio had been released from  
3 lockup a few months ago and had been assigned to a job and  
4 so on. So that it really isn't accurate to say that he  
5 only was released four days ago, he had had another oppor-  
6 tunity earlier that I would like him to tell about.

7 MR. LEVIS: Mr. Moran, that was my next question.

8 A. (By Mr. Delvecchio.) I was locked up October the  
9 15th of last year, and I've just got out Monday. I've been  
10 in the yard since then.

11 Q. (By Mr. Levis.) Now, as I understand it, you  
12 worked in the laundry last summer time?

13 A. Yes.

14 Q. For how long were you in the general population at  
15 that time?

16 A. Since May the 5th I have -- since May the 5th of  
17 1972 I've been in general population approximately five  
18 months.

19 Q. And have you worked during that five-month period  
20 that you were in the general population?

21 A. I was assigned to the yard detail, no two for one.

22 Q. Excuse me?

23 A. I was assigned to the yard detail, no two for one.

24 Q. What was the reason for the no two for one?

25 A. It wasn't explained to me.

1 Q This was before the Copple decision was rendered, is  
2 that correct?

3 A This was before the Copple decision.

4 Q Based on your experience, and again without getting  
5 any specific names or any specific incidents, what is  
6 the relationship between staff and inmates?

7 A The relationship?

8 Q Right, I mean --

9 A Well, it depends, there is -- there's a hostile, a  
10 hostile attitude on both sides. Now, if you're the type of  
11 inmate that are willing to prostrate yourself, subject  
12 yourself, accept a paternalistic condescension with your  
13 keeper, then you are classified as a good boy or model  
14 prisoner and you can have your beautiful relationship.

15 Q But if you feel that you don't do this, you can not  
16 have a good relationship, is this correct?

17 A Well, this is because the problem that exists is.  
18 there is no real understanding or communication, and this  
19 is because the program that the officers go through before  
20 entering into the main yard, and this program that  
21 they're subjected to during their training doesn't allow  
22 them really to become communicative with the inmate, they  
23 entered the institution with a -- let's see, they enter --  
24 it's really hard to explain, but the relationship is be-  
25 cause of lack of communication on both sides, I believe, be-

1 cause there's no understanding individually, and because  
2 the guards are not taught or trained or whatever, to under-  
3 stand the individual and his background or culture back-  
4 ground. There can never be any relationship, positive  
5 relationship.

6 Q So you're saying that the guards are suspicious of the  
7 inmates and the inmates are suspicious of the guards for  
8 the same reason?

9 A Well, they're trained to say we'll treat the inmate  
10 like a man, like a human being, he's not down here to be  
11 punished, but at the same time they tell him keep your eyes  
12 open, there's stabs in your back, they're always doing  
13 something, that's just like teaching a child to hate you  
14 and when he comes to a dog, try to make him love you, that's  
15 my understanding.

16 THE CHAIRPERSON: Were there any other questions of  
17 Mr. Delvecchio?

18 Q (By Mr. Zah.) Yes, I've got questions.

19 Mr. Delvecchio, could you relate to the Committee  
20 about when you first came in or after you came to the insti-  
21 tution, about, you know, your haircut situation, that I  
22 understand you had some problem with?

23 A Yes. As an Indian, a minority in the institution,  
24 we are very unique people, we're not recognized as a  
25 minority in the institution. We're not even recognized as

1 a race, really.

2 Now, I've tried to follow my heritage, my culture,  
3 to identify with my culture. And I was suppressed, forcibly,  
4 for I was punished for trying to grow Indian braids. And  
5 I don't believe that this is just.

6 The suppression of individuality is one of the main  
7 problems with the institution, you're recategorized and  
8 herded in as the whole and you're not recognized as indi-  
9 viduals in the institution. You're recognized as a convict,  
10 or whatever stereotype evolved around this.

11 Now, when I entered into the institution, I was 18  
12 years old, I was kept inside the main walls so whatever  
13 people see in me today, it has been placed there out of  
14 the necessity of survival.

15 THE CHAIRPERSON: Mr. Delvecchio, you were saying that  
16 you entered the institution at 18 and that was when they  
17 made you cut your hair?

18 A. Well, this incident happened a couple months back.

19 THE CHAIRPERSON: The haircutting incident?

20 A. The haircut.

21 THE CHAIRPERSON: Was just a couple of months ago?

22 A. Yes, I was taken to the disciplinary court and I  
23 was given isolation time at that time, I asked if this  
24 would be a repetitious writeup since I was already on lockup  
25 status. I wasn't receiving two for one, my visits had been

1 stopped and I was being punished all the way around.

2 So, I asked if this was going to be a repetitious  
3 writeup because I had refused to cut my hair and I was  
4 trying to reason and explain that, you know, I'm identifying  
5 with my culture as an Indian.

6 And I was placed in isolation. And I was told before  
7 I was placed there that they had methods of cutting my hair  
8 and I said I'm fully aware of this.

9 A week or so later I was confronted by a number of  
10 officers, at this time I was forcibly -- I was forcibly  
11 made to receive a haircut, which I resisted, and upon my  
12 resistance I was cuffed, thrown to the ground, and there  
13 were a couple of officers there, Officer Padilla stopped me  
14 from getting hurt, because at the time I was thrown to the  
15 ground, a couple of officers commenced to billyclub me and  
16 they were stopped by Officer O'Neill and Officer -- both Officer  
17 Granios (Phonetic) and Padilla, but if they wouldn't have been  
18 there, I believe I would have been seriously hurt.

19 At this time, I was -- my haircut was a Mohawk, I  
20 was told if I want to relate as an Indian, well, they'll  
21 give me an Indian haircut.

22 THE CHAIRPERSON: Thank you, Mr. Delvecchio.

23 Mr. Zah, did you have any additional questions?

24 MR. ZAH: Well, I, you know, I think what I wanted  
25 him to explain also was that, you know, a Mohawk haircut,

1 that was really forced onto you, could you describe just  
2 how that haircut looked like and what Mohawk haircut is?

3 A. It was shaved on both sides with a strip of hair  
4 coming down the center.

5 Q. (By Mr. Zah.) That was not by your choice and you got  
6 handcuffed and you were -- they forced you to do this?

7 A. Yes.

8 Q. Do you know the specific date when this happened?

9 A. Yes, I have it. I have the writeup right here. I  
10 was consequently wrote up on the incident of resisting the  
11 haircut.

12 THE CHAIRPERSON: Mr. Delvecchio, while you're  
13 looking that up, could I ask Mr. Walden or Mr. Hogan, you  
14 do have copies of all of the writeups that you get and all  
15 of the papers that are filed and things like that that you  
16 can keep in your own possession?

17 A. (By Mr. Hogan.) I used to keep very complete  
18 records, but the new regulations, they allow you only two  
19 boxes of letters and legal materials in your cell, and I  
20 found it wasn't possible for me to keep all my records and  
21 at the same time keep current with Arizona appeals cases  
22 and Arizona Supreme Court cases, so I --

23 THE CHAIRPERSON: But you do have copies of all of  
24 these?

25 A. I have separate records, yes.

1           A.       (By Mr. Delvecchio.) The date is on the 7th, the  
2 first -- January the 7th, 1974, and reporting officer was  
3 Captain D. Hernon, the official in charge of the crew.

4           THE CHAIRPERSON: Ms. McCullah, did you have a  
5 question?

6           Q.       (By Ms. McCullah.) Yes, Madame Chairman.

7                    To the same inmate witness. Do you feel that be-  
8 cause you have a Native American heritage and culture that  
9 at times your value system and your perception of the world  
10 may be in conflict with the generally accepted normal  
11 behavior of the Anglo Saxon life?

12          A.       Most definitely so.

13          Q.       Have you ever requested any sort of Native American  
14 activities at the prison?

15          A.       We have, at present it's not active, but we have  
16 had a Native American brotherhood club, but the many attempts  
17 that we have made to progress has been defranchised by the  
18 Anglo sponsor that is more or less forced upon the group.  
19 And it's very hard to be -- being an Indian, you understand  
20 how the problem between the Indians to agree on certain  
21 things but at present, yes, we have a club, I think in the  
22 future we're going to attempt to relate more to our people  
23 on the outside to help us.

24          Q.       Do you know of a man by the name of Albert French?  
25 Have you had any communications with him?



1           A     Yes, I have. Albert is doing a fine job, as he can  
2 do under the circumstances, I believe that he -- if he had  
3 a little more area to work within and didn't have the  
4 stringent measures that are placed upon him to work under,  
5 he would be able to help us more.

6           THE CHAIRPERSON: Excuse me, Mr. Delvecchio, can  
7 you establish who Mr. French is and what he does?

8           A     Mr. French is the Indian coordinator, the BIA sponsor  
9 of the American Brotherhood, the outside sponsor.

10          Q     (By Ms. McCullah.) You feel that he has had some re-  
11 strictions placed upon him in his activities or his communi-  
12 cation and contact with the Indian inmates?

13          A     Well, the restriction is in a sense the adminis-  
14 trative restriction is what all groups have, but it's hard  
15 to define the restrictions.

16                Like there are a lot of things that you know could  
17 be done, that would be beneficial to the group, to the  
18 Indian inmates at the prison, if there were certain measures  
19 that we didn't have to go through that prevented us from  
20 accomplishing our objectives.

21          Q     One further question, Madame Chairman.

22                Do you feel that because you are a Native American  
23 and have a different perception and also a different value  
24 system as opposed to the Anglo Saxon world, do you feel  
25 that there is -- there might be a subtle discrimination

1 against the Native American inmates because you are dif-  
2 ferent and see the world different?

3 A. Well, discrimination will -- we're so few that I  
4 don't believe the discrimination is against the whole, not  
5 speaking of me, personally, but as a whole, I don't believe  
6 discrimination is really purposely, it's just that we are not  
7 recognized, and you know, like if something happens or they  
8 name the Chicano group, Blacks, and the Whites, they  
9 never mention the Indian group, we're just thrown in.

10 So, discrimination in the sense that you're putting  
11 it, I would say no.

12 Q I don't think I was talking in those terms of dis-  
13 crimination, I think I was talking in terms of, because you  
14 do not necessarily behave, you know, in the sense that a  
15 White man would accept your behavior as normal to their  
16 standards, whether or not there may not be some sort of subtle  
17 prejudice because you are different.

18 And I'm not talking about denials of any sort, but  
19 just a recognition that they want you to accept their normal  
20 terms of behavior and standards rather than the way you  
21 see yourself as an individual?

22 A. Well, I think this applies to all the races in the  
23 institution. We, as a whole, not just the Indians, we are  
24 all forced to accept the proprieties of the institution.

25 Q Do you have a religious faith? Do you have a re-

1 religious faith?

2 A Yes, I do.

3 Q Is it a Native American faith?

4 A Yes, it is.

5 Q Have you ever requested any sort of medicine man or  
6 Buddhist leader come in?

7 A Well, they -- yes, I did, and they said that my way  
8 of life is now a prison way of life and my culture is, this  
9 was related to me by a Major Jimenez, my culture is now  
10 institutional cultures.

11 Q They did deny your request of having your religious  
12 leader come in to see you?

13 A Yes.

14 MS. McCULLAH: Thank you, Madame Chairman.

15 THE CHAIRPERSON: Are there any other questions of  
16 the panelists?

17 Mr. Williams?

18 MR. WILLIAMS: Just one.

19 Q (By Mr. Williams.) Mr. Delvecchio, the request that  
20 you made, who did you request to for the religious services?

21 A This was to a Major Jimenez and this was all in-  
22 volved over my hair.

23 Q Did you persist any further? Did you go to anybody  
24 else to request these services?

25 A Well, I went as far as I think I was capable of going

1 because the major -- well, yes, I went as far as I could  
2 go.

3 Q Do you know whether any other Native Americans have  
4 made the same requests?

5 A I can't say for sure, but I believe they have.

6 MR. WILLIAMS: Thank you.

7 THE CHAIRPERSON: Mr. Moran, you had a statement?

8 MR. MORAN: Just a point of clarification.

9 Was this a clear request or was this merely a con-  
10 versation about the possibility of this? Was this a  
11 clear threat or a clear, straightforward, outright, you  
12 wanted to see your medicine man or were you just talking  
13 with the guys?

14 THE CHAIRPERSON: Mr. Moran, we will be glad to ask  
15 that question, however, I think you can understand that we  
16 can't allow you to cross examine all of them as these  
17 things come up. I think that you have a very valid point  
18 here, however.

19 MR. MORAN: Yes, the conclusion was made for the  
20 record, that a request was denied.

21 THE CHAIRPERSON: Right, and we will ask Mr. --

22 MR. MORAN: And I want to clearly establish that  
23 in fact a clearcut request was made, was this orally, was it  
24 in writing or was it just in conversation or --

25 THE CHAIRPERSON: Do you want to ask that question?

1 REP. GUERRERO: Yes.

2 Q (By Rep. Guerrero.) Mr. Delvecchio, did you submit  
3 this request as a request for religious services of your  
4 own choosing or your tribe or --

5 A Yes, I did, it was an, it was an oral request.

6 Q Was it an oral request?

7 A Yes, it was an oral request.

8 Q Did you make a similar request to Mr. Kette?

9 A I believe this request for an Indian counselor was  
10 made to Mr. Kette and at that time Warden Gomes and a  
11 couple other individuals, and this is the only request that  
12 I've made to Mr. Kette, that we have an Indian counselor.

13 THE CHAIRPERSON: Mr. Delvecchio, then, excuse me,  
14 when you made that request, you stated Warden Gomes, this  
15 was in the administration prior to the one we have today,  
16 now?

17 A Yes.

18 Q (By Rep. Guerrero.) What date did you make that  
19 request?

20 A It was in June of '73.

21 Q June of 1973.

22 Madame Chairman, this administration has been in  
23 effect prior to that date, is that correct?

24 THE CHAIRPERSON: No, sir, not Warden Cardwell.  
25 Ms. McCullah?

1 MS. McCULLAH: One more question.

2 Q (By Ms. McCullah.) Did you feel, religiously, that  
3 your hairstyle was a part of your faith, your Native American  
4 faith?

5 A Yes, I did.

6 Q Did you make that known at the time they were forcing  
7 you to cut it?

8 A Repeatedly.

9 Q Thank you.

10 A I'd also like to state that this order was, as I  
11 say, I received instructions from Major Jimenez, who had  
12 received orders from the warden, that inmate Delvecchio  
13 was to get a prison, regulation haircut.

14 Now, my hair was cut in this manner, because of my  
15 resistance, I was pulled out and it was cut more or less to  
16 let the other inmates on the run know that this could happen.

17 After my hair was cut, they done went through all the  
18 cell block of CB3 and whether the inmate needed a haircut  
19 or not they gave it to him, this was to justify, I guess,  
20 their action.

21 But I would also like to make, for the record, the  
22 teargasing, Ma'am, that I've received in my cell, and I  
23 just returned from the county hospital in Phoenix, Monday.  
24 I had an eye doctor in the county hospital verify that  
25 my eye has been damaged, I have no vision in it, clear vision,

1 and I'd like to put this on the record, that I was shot  
2 repeatedly in my cell, on June 27th, by Officer Ramez,  
3 upon a --

4 MR. DUKE: I'd like to object to this.

5 MR. LEVIS: Mr. DelVecchio, again that happened in  
6 the previous administration.

7 MR. DELHAYE: This is where it's all one-sided.

8 MR. LEVIS: Also for the record, I'd like to, I'd  
9 just like to note for the record that Mr. Harris, who has  
10 his hand up, will be heard from in the staff panel and we  
11 would appreciate it if it was done at that time.

12 THE CHAIRPERSON: Ms. McCullah wishes to make one  
13 statement and Mr. Duke, then, just a moment please.

14 MS. McCULLAH: Madame Chairman, I'm not really trying  
15 to make anybody look bad, but I'm trying to establish that  
16 there are factual differences amongst people. I'm not trying  
17 to make remarks directed towards the administration, I'm  
18 trying to help them realize that there are definite dif-  
19 ferences and these are in reality, fact, to these people,  
20 that's all.

21 THE CHAIRPERSON: Mr. Duke?

22 MR. DUKE: We would enter a formal objection based  
23 upon the direction in which some of the testimony was  
24 going under. I'll find it here in a minute, 702.11, and  
25 request that we do have a special executive session, if Mr.

1 Delvecchio is going to testify on peculiar medical condition  
2 and name people.

3 THE CHAIRPERSON: Let me consult with Mr. Levis,  
4 will you please, Mr. Duke?

5 Mr. Delvecchio, if we could clarify one point, please,  
6 the business about the teargasing, can you give us just the  
7 date? The year? And the date?

8 A. The date was June the 27th of 1973.

9 THE CHAIRPERSON: Well, then, this --

10 A. And the 28th and the 29th.

11 THE CHAIRPERSON: -- this happened, then, in the  
12 prior administration?

13 A. Yes.

14 THE CHAIRPERSON: All right, for purposes of this  
15 hearing, it has been agreed that we would listen to things  
16 that are relevant and are happening now within the Arizona  
17 State Prison and for our purpose and for your frame of  
18 reference, that's since the administration at the prison  
19 took over.

20 A. Well, excuse me. Well, I brought this into the  
21 record because this is a violation of my civil rights and  
22 my human rights.

23 THE CHAIRPERSON: Mr. Delvecchio, we've already  
24 established that it was in a prior administration.

25 A. If I may, excuse me, I would like to speak a little



1 bit about the detrimental aspects of solitary or confinement.

2 THE CHAIRPERSON: The only thing that -- it's  
3 probably a very legitimate discourse that you want to give  
4 and I know that we've covered a lot of it in our questioning.  
5 At this point, however, we are approximately three hours  
6 behind our schedule, we've been here since 8:00 o'clock  
7 this morning.

8 MR. DELHAYE: Madame Chairman, I'd like to make  
9 an objection.

10 REP. GUERRERO: Point of order.

11 THE CHAIRPERSON: Mr. Guerrero, first of all we'll  
12 take your point of order.

13 REP. GUERRERO: Madame Chairman, at the outset, there  
14 were some ground rules laid, I believe, for the conduction  
15 of these hearings, to take testimony. And the ground rules  
16 agreed upon were that we will take testimony from the wit-  
17 nesses, and that we would make an effort not to commence  
18 recognizing people in the audience because we could drag  
19 these things out indefinitely. And I would like to go back  
20 to the ground rules with which we started.

21 THE CHAIRPERSON: I agree, Mr. Guerrero, that's why  
22 we have already informed Mr. Harris that he will have his  
23 chance to reply, he's next on the calendar.

24 Mr. Moran will have a chance at rebuttal later this  
25 evening, if it's the wish of the Commission members that we

1 hear Mr. Delvecchio at this point, I'd be more than happy  
2 to defer to the Commission members.

3 MS. McCULLAH: Madame Chairman, since we've been  
4 having interruptions and have responses from the floor for  
5 two days, I don't know why one more response from the floor  
6 isn't in order. If it's short.

7 MR. LEVIS: Again I would just like to point out that  
8 the ground rules, as Mr. Guerrero pointed them out, and Mr.  
9 Moran and other persons who have raised their hand do have  
10 an opportunity if they will not be called as witnesses to  
11 present any evidence that they have in written document  
12 to members of our staff and I feel that those are the  
13 ground rules that we set and that's the way committee open  
14 meetings take place and I feel if we deviate from that in  
15 any way in the future, this open meeting will become later  
16 than it even is now, which is three hours behind schedule.

17 And I think that it would be best to go on to the  
18 questions at hand.

19 THE CHAIRPERSON: Mr. Levis, I'll defer to you.

20 MR. DELHAYE: Mr. Levis may clarify something here.

21 MR. LEVIS: Mr. Delhaye --

22 MR. DELHAYE: The statutes state that the attorney  
23 can only respond from when you're going into executive  
24 session and I'd like to have that clarified before, you know,  
25 we go any further, because he's going to be jumping up all

1 night stifling good information that's coming in and, you  
2 know, I'd like to see some things, you know, normalized,  
3 isn't that supposed to be the third party is what I'm sup-  
4 posed to say.

5 REP. GUERRERO: We can proceed and question, it's up  
6 to the Committee.

7 MR. LEVIS: I think we just stated that policy  
8 again. And I think the important thing right now is that  
9 we have made a determination to go on with the hearing and  
10 it's the determination of the Committee, with counsel, that  
11 we will go on with the testimony and I feel that if there  
12 are any more, Mr. Duke has an objection he can submit that  
13 in writing for the department of corrections.

14 REP. GUERRERO: The time period for submitting these,  
15 what was it, 30 days?

16 MR. LEVIS: Yes, and if there are any objections to  
17 that, I feel that it can be done during that time.

18 Q. (By Mr. Levis.) Mr. Akins, it's my understanding that  
19 you spent ten months at a prison in Kentucky and I think  
20 you briefly testified to that.

21 I wonder if you could compare the differences in the  
22 disciplinary procedures in Kentucky to those in Arizona,  
23 based on your experience?

24

25

1 SAM AKINS

2  
3 A (By Mr. Akins.) In the Kentucky, regardless of the  
4 offense or the number of offenses you commit or are  
5 accused of committing, you could only receive eight days  
6 in isolation in the hole.

7 And here, in this prison, you can, I guess legally  
8 receive as many as 30 days, and I'd like to emphasize that  
9 before the Copple decision, a man could only get 15 days  
10 with a maximum sentence but now you can get 15 days for  
11 each sentence and it's almost impossible to get a writeup  
12 without violating more than one rule.

13 Q For clarification, it's up to a maximum of 30 days,  
14 is it not?

15 A I think it's 30 days and then they have to bring  
16 you out for 24 hours or something like that and at the  
17 same time, since you asked me on that, since I've done days  
18 in isolation in Kentucky and here, and I think I spoke to  
19 you about this, earlier, in the, 15 days in isolation is  
20 too many days. Isolation is a cell with a solid door, no  
21 windows, a room that's dark most of the time, you don't  
22 have any literature, the only thing you can take in is  
23 toothpaste and toothbrush and maybe a towel, something like  
24 that, but you don't have any literature or any things to  
25 entertain yourself or to dim the boredom that's there,

1 and it's a real pure form of punishment and me, I would  
2 prefer a beating to being in isolation for 15 days, when  
3 you're going to get 30 days, even more than 30 days,  
4 then it's just all out of proportion.

5 Q Thank you, Mr. Akins.

6 How do inmates and officers address each other, is  
7 it by number, by sir, or what is it?

8 A It's by number, you're supposed to say, you're sup-  
9 posed to be polite to the officer and so forth, they call  
10 you by number unless they know your name.

11 Q Generally, what were the major differences between  
12 Kentucky and Arizona State Prisons?

13 A Well, in Kentucky State Prison, the inmates didn't  
14 have to wear numbers, they didn't have to wear V's in their  
15 heels, they had things like gym and fieldhouse, they had  
16 swimming pool and an entire different recreation facility.

17 They had things to occupy your mind when you're not  
18 at work and it's a lack of these things in Arizona.

19 Like they have baseball and boxing and different times,  
20 they don't have anything along the line of a day house or TV  
21 room or anything like that that they got to go to on a  
22 rainy day, the elements won't allow him out in the open air.  
23 So, consequently, if you're not working on that day off, it's  
24 a holiday or weekend, you just lay in your cell all day.

25 Q Was that a maximum security institution in Kentucky?

1 A Yes, it was.

2 MR. LEVIS: I have no further questions of Mr. Akins.

3 THE CHAIRPERSON: The Chair would like to take note  
4 that obviously Kentucky has a far more generous legislature  
5 than they do in Arizona.

6 Mr. Hogan, did you want to make a statement?

7 A (By Mr. Hogan.) I've a point to make on that,  
8 Madame Chairman, regarding our legislature.

9 THE CHAIRPERSON: Have at it.

10 A They just voted an emergency appropriation to the  
11 Arizona State Prison and the emergency appropriation went  
12 to security lighting in CB2, it went to teargas guns or mace  
13 guns, it went to a very expensive walky-talky outfit which  
14 is maintained at full volume throughout the institution,  
15 24 hours a day, it went to concertina wire around the guard  
16 towers, and it went to things like that.

17 I'm living in a cell block that was built in 1930  
18 that hasn't been painted since 1930. A -- the roof is so  
19 falling apart the birds nest in it and when the lights go  
20 on at 5:00 o'clock in the morning they think the sun has  
21 come up and they start chirping.

22 And the money the legislature has voted is not going  
23 to inmate services, it's going to more security, tighter  
24 security, turning the Arizona State Prison into a fortress  
25 and the excess is going into upgrading senior officers' jobs.

1           In other words, captain become majors, majors be-  
2 come assistant wardens or associate wardens and the  
3 Arizona State Prison staff right now is so top heavy, that  
4 it's absurd, they have more majors and captains and assis-  
5 tant wardens, damned near, than they have guards.

6           THE CHAIRPERSON: Thank you, Mr. Hogan, are there  
7 any other questions that any of the panel or the Committee  
8 members have of the panel?

9           If not, we'd like to thank all four of you for being  
10 here this afternoon and giving us this testimony.

11          A     (By Mr. Walden.) Madame Chairman, I'd like to make  
12 just a small statement in closing, it's my opinion, and I  
13 believe it's the opinion of Mr. Delvecchio and also Mr.  
14 Hogan, that we were advised when we were invited to come  
15 and testify that the purpose for the hearings would be to  
16 investigate and gather evidence of specific violations of  
17 civil rights. And of federal court rulings of this prison,  
18 prison administration. I, for one, do wish to protest  
19 these hearings that they did not go into that.

20          A     (By Mr. Delvecchio.) Second that.

21          A     (By Mr. Walden.) We came prepared for that.

22          A     (By Mr. Hogan.) Second that.

23                I've documented a number of decisions of some, speci-  
24 fically the New Times newspaper, from Tempe, has been kept  
25 from coming in the institution, in violation of the Hook

1 decision.

2 THE CHAIRPERSON: We've covered that, Mr. Hogan.

3 A Now, also, Madame Chairman, you did say that we  
4 would be able to offer suggestions for improvement in  
5 these areas, and we do have a couple of suggestions, mine  
6 are very brief.

7 THE CHAIRPERSON: All right, Mr. Moran, we have  
8 asked various panelists today as we've gone along, to offer  
9 suggestions, we'd be more than happy, I believe Mr. Akins  
10 has already come up with several suggestions in a prior  
11 appearance here, we'd be more than happy to listen to  
12 your suggestions, Mr. Hogan.

13 A First of all, we mentioned earlier the federal  
14 ombudsman to oversee state institutions and to summarily  
15 grant or deny relief or to arbitrate, I would suggest  
16 that is a good idea.

17 I also suggest that no federal funds be granted to  
18 build maximum security fortress-like prisons in the future  
19 or to underwrite such programs.

20 I also believe that there should be federal training  
21 standards established for correctional officers. I believe  
22 that the dead man's statute such as ARS13-1653 that deny  
23 inmates access to the court, should be abolished. And I  
24 believe that Cleon Duke has since left the room in protest,  
25 should join us in a cooperative effort to get such statutes



1 off the books.

2

3 (Applause.)

4

5 THE CHAIRPERSON: The Chair will call for order,  
6 please, I don't think we need any applause from the  
7 audience.

8 A I believe that the federal court decisions that we  
9 have gotten so far, the Hook decision and the Yapnik decision,  
10 which incidentally were done after very lengthy and arduous  
11 litigation and work on the part of experienced counsel, not  
12 jailhouse lawyers like myself, although I'd like to take  
13 credit for it, and I observed in the Phoenix Republic that  
14 the present administration did in fact take credit for these  
15 improvements, and these improvements were not initiated by  
16 the administration they were mandated by federal court.

17 I believe that they should be implemented, that the  
18 relief granted by the federal court should be checked on to  
19 see if it's being implemented by federal agents.

20 They did this in the south, with various civil  
21 rights decisions, I believe they can do it here, they can  
22 send a man down and have him sit in on disciplinary pro-  
23 ceedings, have him sit in on an occasional reclassification  
24 committee meeting. I believe there should be a national  
25 compact to which all states should be signers, stating once

1 and for all what the purpose of corrections in the United  
2 States is.

3 And if the people in the United States agree it is to  
4 be punishment, then let's come right out and say it's pun-  
5 ishment, not say it's care and treatment or rehabilitation  
6 or any of this other euphemistic hogwash, if it's punishment.  
7 Let's say it's punishment. And let's set up standards  
8 for humane punishment. But if it's going to be rehabili-  
9 tation, if it's going to be care and treatment, then, damn  
10 it, let's have that.

11 A final thing that there is some statement as to  
12 what was the relationship between guards and inmates. I  
13 would say this, that where a guard knows an inmate, and  
14 I've been there for six years, I know a lot of guards, the  
15 relationship is pretty good. If they know you're Mike  
16 and you're Joe and you're Sam and you know them or they,  
17 it's pretty good, but when guards come in with little or  
18 no training, when they're assigned to a maximum security cell  
19 block that has 340 numbers, they react with fear, they  
20 react -- they're herding a bunch of animals and that's  
21 the only way they can react because they don't know whether  
22 Sam is a killer who's going to stick a knife in his back  
23 or whether Sam is just a more or less innocuous forger,  
24 who's just trying to do his time.

25 I think that this is a suggestion not regarding civil

1 rights, but something that the department of corrections  
2 could implement.

3 Trained guards, give them training in counsel, give  
4 them training in these areas as well as riot control and  
5 how to use a billyclub, and have one officer assigned to  
6 30, 40 men, like a platoon, have this officer be responsible  
7 for those men and those men be responsible for that officer  
8 and I think you'd have a good working relationship.

9 There are guards there that can get along with con-  
10 victs, there are convicts that can get along with guards,  
11 but as long as a guard comes into a cell block with 340 or  
12 400 numbers, he's going to react to them, impersonally, and  
13 they're going to react to him as a tormentor.

14 Those are the only suggestions I have.

15 THE CHAIRPERSON: Mr. Hogan, we thank you for your  
16 suggestions.

17 It has been brought to my attention that, and I  
18 think that we perhaps made it clear at the beginning of,  
19 before your testimonies here today, that any information  
20 that you might give us that would tend to defame or degrade  
21 any officer or the administration we can not allow to be  
22 heard in open hearing. It would have to be a behind  
23 closed doors, in closed session.

24 If any of you or if all of you have any actual facts  
25 that you can bring before this Committee that deals with the

1 present administration of the Arizona State Prison, a  
2 subcommittee of this group will be glad to meet with you  
3 in closed session.

4           However, I would warn you that we need specific in-  
5 stances which pertain to you, which you know of, that have  
6 happened since the administration --

7           A       (By Mr. Walden.) Madame Chairman, I have approxi-  
8 mately 34 pages, typewritten, single-spaced, of specific  
9 instances dealing with me, personally, which I would request  
10 be heard by the Committee in closed session, and also I'd  
11 like to invite the public to the civil rights hearing  
12 before Judge Muecke, case number 73-441, or 411, rather,  
13 when it comes to trial and I would hope that that would be  
14 open to the public so that they can see the violations of  
15 our, in specific instances, of our civil rights, and of  
16 federal court rulings in Arizona and elsewhere.

17           THE CHAIRPERSON: Mr. Walden, we will ask that  
18 several members of this Commission do meet with you in  
19 executive session on those specific instances.

20           Mr. Guerrero?

21           REP. GUERRERO: Madame Chairman, I was just going to  
22 request for information from counsel, if these, the witnesses  
23 had any testimony prepared and in the form of documents  
24 or any documentation prepared, if it would be permissive to  
25 accept it at this time for review? Is that within the --

1 THE CHAIRPERSON: Mr. Guerrero, evidently Mr. Walden  
2 does have some written testimony that he would like to go  
3 into executive session with members of this Committee on.

4 REP. GUERRERO: This is why I wanted an opinion from  
5 legal counsel, to see if we could accept it for review and  
6 go over it and then, at a future date, if we feel it has  
7 merit, then come back.

8 MR. LEVIS: We could do that, but again we would  
9 have to go into closed session on a later date.

10 REP. GUERRERO: Due to the lateness of the hour.

11 MR. MUSKRAT: We can do that, Rep. Guerrero, we can  
12 go into closed session with these gentlemen and see what  
13 they've got and if what they have is not defamatory, then  
14 that can be made a part of the record at this time.

15 If they find something, if we find something that's  
16 going to take additional investigation or something like  
17 that, then we can conduct that additional investigation.

18 If we find something that's going to take an addi-  
19 tional investigation and another hearing, a short hearing  
20 perhaps, if that's possible, then perhaps you know, we can  
21 go into that, but we really can't say until we find out what  
22 they've got. So, I would therefore suggest that if we can  
23 have some volunteers from the Committee to form themselves  
24 into a subcommittee to hear what these gentlemen have, we'll  
25 go into an executive session and see what they've got.

1 THE CHAIRPERSON: Mr. Williams, Mr. Zah and Dr. Glass.

2 Mr. Delvecchio, Mr. Walden, Mr. Akins, and Mr. Hogan,  
3 we'd like to thank you all for being here this afternoon.

4 The Chair would now call Mr. Cleon Duke and Mr.  
5 Bruce Rinaldi.

6 For the benefit of the people who are left in the  
7 room, the Chair would like to advise what we hope the pro-  
8 cedure will be for the next couple of hours.

9 At this point we're now about three hours and ten  
10 minutes behind schedule. So we would like to hear the  
11 testimony of Mr. Duke and Mr. Rinaldi, then the staff testi-  
12 mony of Major Martinez, Mr. Harris and Sergeant Padilla.

13 At that point we would break for dinner for one hour.  
14 After the dinner break, we will come back and have the two  
15 panels on education, which will deal both with academic  
16 and vocational and those panels will include inmates Ray  
17 Chatman and Chito Miranda and staff members John Wright,  
18 James McLaughlin, Duane Vild and we have a gentleman here  
19 from the department of economic security, I believe.

20 The second panel that we will hear after dinner,  
21 will be the recreation, commissary and library, with inmates  
22 Billy Burkhardt, Waymond Small, Ray Reese and Paris Carriger.  
23 And the staff will be Gilbert Dockery, B.J. Harris, Jeff  
24 Martin and Robert Au.

25 After that we will have closing statements by Warden

1 Cardwell and Mr. John Moran. We will have the model base-  
2 line criticism, and we have set aside time to hear from  
3 the inmates at the women's prison at that point.

4 Mr. Rinaldi, would you state your name, address and  
5 occupation for the members?  
6

7  
8 BRUCE RINALDI  
9

10 A. (By Mr. Rinaldi.) My name is Bruce Rinaldi, I'm an  
11 attorney, I work for the University of Arizona School of Law,  
12 and I run or direct what is known as the University of  
13 Arizona Post-Conviction Legal Assistance Clinic.

14 THE CHAIRPERSON: Mr. Rinaldi, could you explain the  
15 post-conviction assistance clinic?  
16

17 A. Okay.

18 What you basically have to understand about the  
19 legal system, and what apparently Mr. Walden failed to  
20 grasp when I wrote him the letter, is that any person that's  
21 standing trial or appealing his case has the right to an  
22 attorney and that's mandated by supreme court decisions.

23 However, once a person has appealed his case and  
24 lost, he does not have the right to an attorney. Our clinic  
25 is set up to fill the void so that the person that goes to  
trial, loses, goes before the supreme court on appeal and

1 loses his appeal, may then have some, what is known as  
2 post-conviction remedy available to him.

3 In most instances, the post-conviction remedy will  
4 take the form of a writ of habeus corpus either to the  
5 federal -- well, to the federal court or a local remedy which  
6 is the equivalent of a writ of, petition for writ of habeus  
7 corpus.

8 THE CHAIRPERSON: How does the program work, Mr.  
9 Rinaldi?

10 A Well, basically the program as it was initially  
11 instituted in 1969, I believe, by one of the professors at  
12 the law school who was interested in corrections and  
13 criminal law. What we do is we send out, not advertisements  
14 but we place posters in prisons around the state, and in this  
15 state there are three correctional institution, one at  
16 Safford which is a federal prison or a federal correctional  
17 institution, another one at Safford which is state, and  
18 another one at Florence, which is state. These have been  
19 placed in, the posters have been placed in the prisons  
20 indicating that if an individual has a legal problem  
21 relating to his conviction to contact the clinic.

22 When he writes us a letter we'll send back a questionnaire.  
23 The purpose of the questionnaire is to weed out the cases that  
24 we can't help on, for example, if a person was -- is charged  
25 with a violation while he's in the prison and is being



1 prosecuted for it and has a trial attorney as in the case  
2 of a recent prosecution, I can't help the individual, he  
3 already has an attorney, it would be useless to provide  
4 a second attorney.

5 If, on the other hand, he's been convicted and is  
6 still appealing the conviction, I, likewise, can not help  
7 him. It's only when he's lost his appeal that our clinic  
8 will step in or try to intercede and seek some sort of post-  
9 conviction relief. Either in the federal courts, the  
10 state courts of Arizona.

11 THE CHAIRPERSON: Mr. Rinaldi, do you have a copy of  
12 that questionnaire with you?

13 A. Unfortunately, I don't.

14 THE CHAIRPERSON: I believe we do have a copy here  
15 somewhere, and as soon as it can be located, I will enter  
16 it.

17 MR. LEVIS: Madame Chairman, Mr. Duke is back, I'd  
18 like to call him as a witness at this time.

19 I will locate the document that you requested.

20 A. Basically, the purpose of the questionnaire is to have  
21 the inmate describe what his problem is, and also to  
22 indicate to us what materials he has available from his  
23 conviction, that is whether he has any transcripts, memo-  
24 randum that were filed by his attorney, any kinds of pleadings  
25 that were filed by the attorney, which may assist us in re-

1 viewing his case.

2 THE CHAIRPERSON: Who does the work, the legal work  
3 for the post-conviction clinic?

4 A. Well, I am the only attorney staffed on the post-con-  
5 viction legal assistance clinic and the clinic essentially  
6 has a two-part role, we're there obviously to assist  
7 prisoners but since we're funded by the University of  
8 Arizona, it's also designed to assist students in learning  
9 how to work with prisoners and how to handle prisoners'  
10 problems.

11 So, the clinic itself is staffed by myself, and  
12 actually run by anywhere from ten to 15 students. The  
13 students take the program as a clinical seminar.

14 THE CHAIRPERSON: These are law students?

15 A. Yes, law students.

16 The law students take the program for two hours,  
17 actually four hours a week of seminar and then the rest of  
18 the time they receive -- when the questionnaires come back  
19 a case file is open, yes. That's one --

20 THE CHAIRPERSON: We'll enter it into the record.

21 A. A case file is opened for the inmate and then a  
22 student will write the inmate and discuss with him his  
23 particular problem, in many instances, as I've indicated,  
24 we can't help them and we simply have to indicate that  
25 that's the case. In other instances, though, there may be

1 help available there's a substantial risk involved in going  
2 forward with it, for instance, if you vacate a guilty plea,  
3 the person may be reindicted for several offenses.

4 By virtue of the fact that he entered into a plea  
5 bargain and many times an inmate simply doesn't want to  
6 take the chance of getting convicted of perhaps several  
7 crimes where he had managed to plead out to only one, so  
8 once we've established that the inmate wants to go through  
9 and take the chance, the risks involved, then we will  
10 try to do something.

11 I might add that in most cases, while the claims  
12 may have some foundation, oftentimes the problem is that the  
13 inmate has simply failed to understand what occurred, and I  
14 think that perhaps the legal profession in that regard has  
15 failed their client, because they simply have not taken  
16 the time to explain to the inmate what happened at his  
17 trial and in many instances a three or four-page memorandum  
18 and a visit by the student practitioner can explain to him what  
19 happened in court and why what was done was proper. So --

20 THE CHAIRPERSON: After you and the student determine  
21 that you will take one of these cases, do you then visit the  
22 prisoner and explain to him exactly what his remedies are  
23 and --

24 A. Yes, we do.

25 Lately I've instituted the policy of simply going

1 up with a car every week or two and taking whichever students  
2 wish to visit inmates, so in, more recently we've been  
3 visiting inmates more. Previously we left it up to the  
4 students and with the energy crisis it simply became im-  
5 possible for many students to get up there, so I changed  
6 the foremat around to provide the service for them.

7 THE CHAIRPERSON: How many inmates are represented at  
8 this time?

9 A That's really kind of hard to say because, well,  
10 some of them are open and some of them are in a position  
11 where while we're working on the case there's probably  
12 little we can do, but I think at this time there's some-  
13 thing, somewhere in the vicinity of 120 open cases.

14 THE CHAIRPERSON: Can you get into fringe areas, such  
15 as inadequate health care and things of that nature?

16 A All right, let me explain:

17 When the prison project was begun back in 1968,  
18 the case of Johnson versus Avery had not come down from the  
19 United States Supreme Court. The Johnson versus Avery  
20 simply implies or states that an inmate has a right to legal  
21 services.

22 In Johnson's case, he had a right to a jailhouse  
23 lawyer. My feeling is that with the advent of that  
24 opinion, we are no longer in the prison owing to the good  
25 graces of the warden, but prior to Johnson versus Avery, we

1 were there because the warden allowed us to be there and  
2 as part of the agreement we said if we are allowed to do  
3 post-conviction work we will not enter into any kinds of  
4 civil rights complaints, that is suits directed against  
5 the prison administration based upon prison conditions.

6 That was the original agreement. Since then we've  
7 stuck to that agreement.

8 I might add it's not because I would like to stick  
9 to that agreement or not because I am not aware of the,  
10 well, the violations of civil rights that have been brought  
11 to my attention that have occurred at the prison, but  
12 simply because as one attorney and working with a limited  
13 number of students, I simply do not have the time to do any-  
14 thing than what I'm doing right now.

15 And you know, I wish --

16 THE CHAIRPERSON: Those are strictly post-conviction?

17 A. That's correct.

18 THE CHAIRPERSON: You deal directly with the original  
19 conviction?

20 A. That's correct. And on only two, in only two in-  
21 stances have we done anything else than that and those two  
22 instances were specifically approved by a judge and by the  
23 dean and they don't even relate to the prison, they're an  
24 unrelated matter, but they are civil rights complaints.

25 THE CHAIRPERSON: How closely do you work with the  
attorney general's office on the work that you're doing?

1 A Well, actually we have very little to do with the  
2 attorney general's office, if we file something in court,  
3 depending on which court we file in, the attorney general  
4 may or may not answer it. If it's a local rule 32 petition  
5 which is a habeus corpus petition in the State of Arizona,  
6 we would file it in superior court, in which case the county  
7 attorney would answer.

8 If we file a habeus corpus petition before the  
9 Supreme Court of the State of Arizona, which would be  
10 almost never, under the new rules, then the county attorney  
11 would answer, I mean the state's attorney would answer, and  
12 if we file it in the United States District Court, likewise  
13 would answer. But apart from opposing us as adversaries,  
14 I have very little contact.

15 Now, I did get into contact with Mr. Duke subsequent  
16 to the confiscation which occurred at the prison on the 21st,  
17 I believe, of June, in 1973.

18 My problem there was that, as I said, I don't get in-  
19 volved in prison administration problems, but there were  
20 legal documents which I had been informed by inmates had  
21 been confiscated and my feeling was that if you took away  
22 the legal documents you took away the right to representation  
23 and that, to me, was not a prison administration problem  
24 but was rather a problem of one's right to counsel and went  
25 to the very question of whether I could represent these people.

With that in mind, I brought the problem to the

1 attention of the Supreme Court of the State of Arizona,  
2 and in a letter addressed to me by Justice Lockwood, she  
3 indicated that if in fact, I believed that there had been  
4 confiscations of legal documents, I should, by all means,  
5 pursue whatever remedies were available to me.

6 I then contacted Mr. Duke and Mr. Duke was helpful in  
7 locating, I believe one or two sets of documents.

8 Since then, the number of complaints of missing  
9 documents has diminished considerably, and many of them, I  
10 suppose, have been returned or people have simply come to  
11 the conclusion that they're not going to return and no  
12 longer write to me about them.

13 But that was my, almost my sole exposure to Mr.  
14 Duke and anything dealing with prison administration.

15 THE CHAIRPERSON: Thank you, Mr. Rinaldi.

16 Mr. Duke, would you state, for the record, your name,  
17 occupation and address, please?

18  
19  
20 CLEON DUKE

21  
22 A Cleon Duke, Assistant Attorney General, 159 State  
23 Capitol Building, Phoenix, Arizona.

24 THE CHAIRPERSON: Mr. Levis?

25 Q (By Mr. Levis.) Mr. Duke, we've heard some testimony

1 concerning the new disciplinary rules that were, as I under-  
2 stand it, agreed to by stipulation by both sides in Judge  
3 William Copple's Court, and I just wondered if you could go  
4 through the procedure which resulted in the rules just  
5 briefly?

6 A. Yes, I can.

7 I had a couple of other items to respond to which I  
8 can do now or later, at your convenience, if I may.

9 Q. Why don't we first go into this?

10 A. Okay.

11 Well, maybe it will be backtracking, but that's okay.

12 Where would you like to start? It's a --

13 Q. It's my understanding, first of all, that Copple was  
14 appointed to represent two inmates, Taylor and Yapnik and it  
15 turned into a class action regarding loss of two for one  
16 and disciplinary procedures, is that not correct?

17 A. It was initially filed as an inmate proper complaint  
18 in the spring of 1972. As you're probably aware, when  
19 you're speaking in terms of a class action, class would not  
20 be adequately represented by nonattorneys in court cases  
21 to that effect and the federal court accepted it as a  
22 class action rather than as a bunch of diverse suits by dif-  
23 ferent people and therefore appointed counsel to represent  
24 -- the attorneys, that counsel was John P. Frank.

25 Q. And it's my understanding, after hearing a deposition



1 of Mr. James G. Bennett, who was former director of the U.  
2 S. Bureau of Prisons, that the two sides involved in the  
3 case set out to revise the disciplinary procedures, is  
4 that not correct?

5 A. It's correct as far as time, yes. It was shortly  
6 after hearing that that a stipulation was reached and which  
7 an interim order had been presented to the court. However,  
8 the reasons for that were not exclusively or at least as  
9 far as the defendants' part was concerned, particularly  
10 related to that testimony.

11 Q. Now, it's my understanding that the interim rules  
12 were entered into and then there were some objections con-  
13 cerning the final rules that were adopted by, approved by  
14 Judge Copple in October of 1973.

15 You have supplied us with a memorandum from the  
16 plaintiffs' counsel outlining their objections to the rules.  
17 Memorandum from you outlining the defendants' position as  
18 to why the rules should be adopted, and then a decision  
19 by, it's a memorandum and order by Judge Copple on August  
20 27, 1973, which substantially upheld your position, is  
21 that not correct?

22 A. That's correct.

23 Q. I think it's the three documents I have here and I  
24 think just to save time concerning the objections of the  
25 attorneys for the plaintiffs and the objections of you for

1 the defendants, I'd just like you to identify these and then  
2 we'll have them entered into the record.

3 These are correct --

4 A. Yes, those are the documents.

5 MR. LEVIS: I'd like to enter these three into the  
6 record, then as the next three exhibits.

7 Testimony was elicited from inmates who are just on  
8 concerning loss of two for one time or denial of two for  
9 one time, and the problem of having, which I think Mr. Frank  
10 talks about in your memorandum which you respond to and I  
11 just wondered if you could briefly describe the state's  
12 position concerning, first, the difference between denial  
13 of two for one time and the loss of two for one time, as I  
14 understand the reclassification committee can do through  
15 reclassification, and the tacking provision, which I under-  
16 stand allows an inmate to be cited for multiple offenses  
17 which could result in isolation up to 30 days for two  
18 or more offenses and 15 days for one offense?

19 First two for one time?

20 A. What would you like to hear first?

21 Q. Two for one time, right.

22 A. Okay.

23 A difference between denial and loss of two for one  
24 time. I'll assume what you're talking about is with regard  
25 to loss in the future and loss in the past. By statute, the

1 only body empowered to take away two for one time, or statutory  
2 good or copper time, either one, is the board of pardons  
3 and paroles.

4 Q I don't think I was talking about that, what I was  
5 talking about would be prospectively the disciplinary  
6 committee under the new rules, as I understand it, is the  
7 committee that shall have the power to deny two for one  
8 time.

9 A That was the testimony that was given earlier by Mr.  
10 Hogan. That is incorrect.

11 Q Well, let me read from the order of Judge Cople and  
12 Exhibit Number 1, which was attached to that order, or I  
13 should say stipulation, which would be correct, stipulation  
14 entered into by parties for the plaintiff and defendant on  
15 October 19, 1973.

16 And in that, the same section I read previously, I  
17 think it's section 3C2, states that the committee, which  
18 refers to the disciplinary committee, shall hear and dispose  
19 of violations or other matters where a prisoner faces the  
20 following sanctions or penalties and B is denial of two for  
21 one time credits under the provisions of ARS31-252.

22 Now, as I understand it, this is denial in the  
23 future, is that not correct?

24 A Yes, I think you're giving it a rather extracted  
25 reading, there was never any intent, Mr. Hogan, I believe

1 this is what we're getting at. Perhaps if you'll just let  
2 me ramble on for a minute, I can bring the point to a head.

3 Q Sure.

4 A Nobody, Judge Copple, John Frank, I hesitate to speak  
5 for John Frank because no one could adequately do that,  
6 but John Frank or myself never contemplated the disciplinary  
7 rules as having any effect, whatsoever, on the reclassi-  
8 fication committee. And their function and their powers.  
9 This was not a contemplation of the order.

10 The reclassification committee, by case law in  
11 Arizona, rather than by definitive interpretation, you  
12 can draw from statute, is the agency within the adminis-  
13 tration of the prison which may place someone on two for  
14 one status.

15 Q My concern is, I think, Mr. Hogan advised that con-  
16 cern, is that the reclassification committee can be used in  
17 lieu of the disciplinary procedures.

18 A Judge Copple commented on that in his original  
19 order, and I again I'd like to correct that. In the stipu-  
20 lated order, Judge Copple has taken the rap for this for  
21 quite a while.

22 Q I realize it's a stipulated.

23 A These were stipulated orders under his signature  
24 and as a result they became the Copple order when in fact  
25 they were the stipulated order and so it's sort of an unfair

1 position that he has been put in.

2 He is by no means guilty, I don't believe anybody  
3 else. At any rate, in that December 22nd, order, there was  
4 one statement in there which I believe has misled many  
5 inmates and perhaps many people since that time, in which  
6 it is stated there that by no method or means shall the  
7 reclassification committee be used as a surreptitious way  
8 around discipline. However, the discipline rules were  
9 drafted and loss of two for one is a penalty, specifically  
10 for the disciplinary committee.

11 That was one of the sanctions they could have. It  
12 did not mean that they were the only ones that could have  
13 that sanction, that was not contemplated and never in-  
14 tended. The only intent that was entered by agreement, was  
15 that where a disciplinary violation had occurred, and for  
16 whatever reason, the institution decided not to use the  
17 disciplinary proceedings as a means for enforcing the law  
18 of the institution, it could not secondhandedly use the  
19 reclassification committee to enforce that same regulation.

20 However, it never made any comment on the adminis-  
21 trative function of classifying inmates.

22 Q My question gets to that first sentence again in  
23 that section it says the committee shall hear, shall hear and  
24 dispose of violations or other matters and it's the "or  
25 other matters" that bothers me, because you're not talking

1 about rule violations, other matters could be anything. I  
2 think it's easy for both inmates and for counsel to inter-  
3 pret that to mean any matter where there is denial of two  
4 for one time prospectively.

5 A. Bill, the best way I could answer that, and it would  
6 take us considerable time, is to dig out the record of --  
7 record and read it to you. I, perhaps the best thing to do  
8 is to submit it to you with the many other things we will in  
9 the next 30 days, however this was clearly never the intent,  
10 I'm sure that Judge Copple could gladly sign an affidavit to  
11 that effect. This just was not the purpose, we were dealing  
12 solely and purely with discipline. Disciplinary violations  
13 and due process for prosecution of those violations.

14 Never contemplated any other function of the prison,  
15 specifically excluded it, the only consideration to any  
16 other function of the prison was that the other functions  
17 would not be surreptitiously plugged in where discipline  
18 had failed.

19 Q. Again, that's my point, Mr. Rinaldi?

20 Mr. Rinaldi?

21 A. (By Mr. Rinaldi.) Yes, I might address myself to this.

22 Frankly, I, for a while, participated in disciplinary  
23 hearings until I was forbidden to by the warden. So, since  
24 then I have not participated in them. However, during that  
25 time, I --

1 THE CHAIRPERSON: Excuse me, Mr. Rinaldi, this was  
2 Warden Cardwell that you're referring to at this time?

3 A Yes, Superintendent Cardwell, yes.

4 During that time, it was my experience that if an  
5 inmate was -- had several rule violations, that as the rule  
6 stated, you'd get 15 and on a multiple charge offense, could  
7 get up to 30 days in isolation.

8 Some individuals, however, were really recidivists and  
9 as soon as they'd get out they'd get another rule violation  
10 and go before another disciplinary hearing.

11 These people that they tapped as recidivists then were  
12 certified or reclassified by the classification committee  
13 for, now these aren't the only persons that were reclassified  
14 and placed in administrative lockup or at least in care  
15 and treatment, but some of these people kept on getting  
16 disciplinary violations, were then classified as need of  
17 treatment. And as a result, were placed on permanent lockup.  
18 Under the guise of receiving care and treatment.

19 On one instance, I queried several of the hearing  
20 officers and asked them, well, now wait a second, this  
21 guy's finished with his disciplinary hearing, where does he  
22 go now? I mean doesn't he get out of lockup because he's  
23 served his 30 days, and the answer was no, he'll go back to  
24 the classification committee and it's likely he'll be  
25 certified for care and treatment and then they laughed and

1 I queried again, why had they laughed and I said, don't they  
2 receive any treatment?

3 And the indication was none to speak of. Apparently  
4 there are psychiatrists, two, I believe, at the prison,  
5 but I don't believe that comes anywhere near supplying the  
6 need for them. There are counselors as well, but in many  
7 cases, individuals placed in lockup don't receive that  
8 counseling.

9 It's always been my feeling that if you place a  
10 person in care and treatment for treatment, if you don't  
11 give him treatment, you have to let him go.

12 Now, certainly, if you were in the area of mental  
13 hospitals and you were placed in a mental hospital for care  
14 and treatment and were not given the treatment, you could  
15 get a writ of habeus corpus and be released from the hos-  
16 pital and that's the direction the law is going now.

17 Unfortunately, in prison, when you're placed in  
18 care and treatment, if you're not given treatment, it's  
19 very difficult to obtain release, so I think that probably,  
20 and again there are probably a good number of people that  
21 receive very legitimate care and treatment, but I think  
22 there's also some individuals that are simply placed in care  
23 and treatment as a means of keeping them out of the yard,  
24 keeping them out of the administration's hair.

25 THE CHAIRPERSON: Mr. Rinaldi, do you know of any



1 specific inmates that this has been done to?

2 A Yes, I think you heard from Fred Delvecchio for one,  
3 and I've also received letters from other inmates with  
4 the same complaints.

5 I did not bring those letters, I was not requested to  
6 bring those letters nor was I told to even enumerate on  
7 this particular point, but there have been numerous letters,  
8 I shouldn't say numerous, perhaps five or six saying, look,  
9 I'm not getting any treatment.

10 I suppose the other thing that bothers me, too, is  
11 this whole thing about two for one. I have made an agree-  
12 ment with the warden, not to become involved in prison  
13 administration matters. Frankly, my feeling is that though  
14 two for one is a discretionary award given to an individual  
15 by the administration, as Mr. Hogan pointed out, most  
16 judges take that into consideration in sentencing, and it  
17 can substantially increase the length of time that an  
18 individual is incarcerated.

19 Furthermore, it goes to the issue of plain sentencing  
20 and I believe that I should not be prohibited from moving in  
21 that area, at least questioning two for one. I have made  
22 an attempt to at least talk to the warden about that on one  
23 occasion I wrote him a very lengthy letter inquiring about  
24 his policy for the purposes of explaining to inmates why  
25 or why not or what the reason is that they are not receiving

1 two for one.

2 His reply came in a one or two-paragraph reply, simply  
3 saying, my policy is as stated in ARS31-252. I think it's  
4 evident from what you've heard today that ARS31-252 is a  
5 very general statute and that there are a great deal of  
6 discretionary orders or at least discretionary interpre-  
7 tations that are made by the administration which they  
8 seem to refuse to discuss with me.

9 Now, my feeling, as I said, is it goes to the  
10 question of sentencing and that is the legitimate scope of  
11 my work. Frankly, as I've indicated, only myself as the  
12 only attorney, I've since given up on that subject, it's  
13 just not worth fighting, I have other things to do.

14 MR. LEVIS: Mr. Rinaldi, I have two points here.

15 THE CHAIRPERSON: First of all, if the two for one  
16 does go with sentencing, which from testimony I have heard  
17 not only the last two days but from testimony that I've  
18 heard as a member of the legislature, then it would not  
19 go to the administration of the prison, I mean it wouldn't  
20 be to the administration of the prison that you would go for  
21 a clarification but it would rather seem to me you would  
22 go to the trial judges who are making these sentences.

23 A. No, no, the statute simply says that you're entitled  
24 to two for one time if you occupy a position of trust.

25 When the trial judge sends you to Florence he gives you

1 an indeterminate sentence, a minimum and a maximum, let's  
2 say five to ten years, but once you get up there, unless  
3 you occupy a position of trust, you are not entitled to two  
4 for one time. So, if you are classified in a position  
5 where you do not occupy a position of trust, you will not  
6 receive two for one time.

7 I might add, I can not speak authoritatively on the  
8 subject, because I've simply been denied any access to any  
9 information on the subject.

10 THE CHAIRPERSON: Well, Mr. Rinaldi, we have heard  
11 in two days of testimony from both inmates as well as staff,  
12 that there are approximately, better than 90% of the  
13 prisoners in the correctional facilities and I'm including  
14 the state prison as well as all of the others who are on  
15 two for one time. There's only a very serious infraction  
16 of the rules that your two for one time is taken away.

17 A. Yes, that's correct, most people do receive two for  
18 one time, but what I'm concerned about is the fact that  
19 it can be taken away at the discretion of the prison  
20 authorities, it's not something that is given to them as a  
21 matter of right by the sentencing judge, it can be taken  
22 away as a matter of discretion.

23 THE CHAIRPERSON: As a matter of fact, the right of  
24 the sentencing judge we have heard from numerous people as I  
25 say, who feel the judges sentence twice.....as much because

1 the statute that calls for two for one time --

2 A Absolutely.

3 THE CHAIRPERSON: That is not the administration  
4 of the prison's job to look into that matter, it's the  
5 sentencing judge.

6 A Once an individual is sentenced, the question of  
7 whether he gets two for one time is out of the hands of the  
8 judge, it then comes up to the question of whether the  
9 prison wishes to give that time or not and whether they  
10 give it to an individual or not is based upon whether they  
11 come within the statute and that is occupy a position of  
12 trust.

13 But what I'm suggesting to you, if a person is  
14 denied two for one time wrongly, you must go into court under  
15 a special action and challenge the prison's action for wrong-  
16 fully exercising their discretion, has nothing to do with  
17 the sentencing judge.

18 THE CHAIRPERSON: I think the matter at hand is  
19 definitely two-fold, and not something that we can, I know  
20 it's not something we can hash out here, tonight.

21 A Well, I might just add that Warden Cardwell, or  
22 Superintendent Cardwell, has even indicated to me that he  
23 thinks two for one is an abomination and that he wishes  
24 there was some other sentencing procedure, because you're  
25 never certain why the judge gives a person a certain period

1 of time.

2 THE CHAIRPERSON: Right, I think you do know all  
3 the criminal laws and criminal rules and subsequent sen-  
4 tencing and everything else is being considered now under  
5 the criminal code revision. And I think you will see within  
6 a year's time, a tremendous change within that area.

7 A Well, one can only hope that we will see change.

8 THE CHAIRPERSON: I can almost guarantee we will see  
9 a change, Mr. Rinaldi.

10 A There's a question which direction the change will  
11 go.

12 THE CHAIRPERSON: Mr. Levis?

13 Q (By Mr. Levis.) Mr. Duke, the other area of concern  
14 is the --

15 A (By Mr. Duke.) Can I ask a question, Mr. Rinaldi  
16 got an opportunity to say what bothers him, can I get an  
17 opportunity to say what bothers me? I guess the --

18 Q The other area was the area of tacking or multiple  
19 offenses which can increase a person's maximum isolation  
20 time 15 days and 30 days and again, just relating back to  
21 the testimony by James, I think he indicated that the maximum  
22 time that he felt was proper was 15 days. And I just  
23 wondered if you would discuss this and then also what is  
24 being done to monitor the new disciplinary rules and make  
25 sure they're followed?

1           A.     Comment on Mr. Bennett's opinion, that's exactly the  
2 way we've treated it and that's the way it was taken, as  
3 expert opinion. At the same time, when we, and I'm speaking  
4 as a lawyer now, not in terms of anything else, but in  
5 terms of representing our position, we submitted numerous  
6 cases to the court which stated mostly circuit and district  
7 opinion on the federal level, that a sentence of 30 days was  
8 not in terms of what we were talking about cruel and unusual  
9 punishment per se.

10                 All the courts have been much more concerned with  
11 the type of treatment someone receives while in an isolation  
12 situation, moreso than about the length.

13                 Again, I don't think that Mr. Bennett's testimony  
14 was what provided the guideline for the interim rules, how-  
15 ever it was not binding upon us for the final rules.

16                 On the position of tacking, and I'll -- I can speak  
17 to that in a general way and speak to a number of other  
18 things I'm certain that you're going to raise because there  
19 are, out of our three or four differences that the plaintiff  
20 and defendant had in settling this case, they all revolved  
21 around one thing, tacking falling in there, and that was  
22 whether or not or how much discretion the administration  
23 could be given to operate the system.

24                 Mr. Frank argued for the plaintiffs that this  
25 discretionary right to impose 30 days for multiple offenses,

1 was discretion that the administration couldn't handle.  
2 And this was the same argument that came up on a number of  
3 other areas, the whole thing boiled down to a determination  
4 by Judge Copple as to whether or not the administration  
5 could be afforded discretion in the three or four areas that  
6 were up for grabs including the tacking question, and could  
7 handle it.

8 Our argument was they can't operate the system without  
9 it. Their argument was that's not so, and therefore they  
10 really don't need it.

11 I would let Judge Copple's final decision speak for  
12 itself. The order of August 27th is the one order in the  
13 entire proceedings that was not entered by stipulation,  
14 that was entered by Judge Copple and I think it fairly well  
15 covers the area.

16 He dealt with the problems, responded to them speci-  
17 fically, it's a part of your record and we agreed with the  
18 judge, even in the one area where he disagreed with us,  
19 but we were obliged to advocate which we did.

20 Q The next question I had, then, is, is there any  
21 procedure to insure that the new rules are adhered to?

22 What I mean by that is, is there any procedure for  
23 appeal either to Judge Copple or is there an ombudsman?

24 I realize that there is an appeals officer within the  
25 department of corrections who will testify, but I just

1 wondered if there's any other procedure or if you feel such  
2 a procedure is a good idea?

3 A. No, there isn't, that question was presented to Judge  
4 Copple, and it was presented in the form of a submission made  
5 earlier by Mr. Hogan, a motion by John Frank, in which he,  
6 in his eloquent way, made his point, we submitted a response  
7 to that and Judge Copple ruled that there would not be  
8 any continuing counsel, he did not feel on the basis of the  
9 fact that over a period of ten or 11 months we had been  
10 in constant contact and monitoring the system that was in  
11 the process which was the basis, the foundation for what  
12 we developed.

13 That there was any need to continue appointment of  
14 counsel to monitor the system, so there's no legal require-  
15 ment for that.

16 And it wasn't because it was an oversight, it was a  
17 question presented to the judge and he did not feel it was  
18 necessary for him to continue appointment on behalf of the  
19 inmates.

20 Q. And that's the --

21 A. That's the legal position.

22 In administratively, the department of corrections,  
23 has taken several steps, not what -- and what you're talking  
24 about particularly to monitor, we don't have people that  
25 go down and sit in periodically to see if it's running properly,



1 not by assignment. But there have been a number of things  
2 done to hopefully make the system work, and in the area of  
3 education on all levels that I think will help the system  
4 work.

5 You have to realize the Copple order, whatever you  
6 want to call it, the Taylor and Yapnik ruling, the new  
7 rules are very complex and they're obliged to be carried  
8 out by laymen. You don't plug a system in like that  
9 overnight and have it work properly.

10 Judge Copple understood this, John Frank understood  
11 this and that's why we spent so much time spelling out  
12 everything so that the people that were obliged to plug it in  
13 would know what plugs they were working with.

14 Q Now, it appears to me that Mr. Frank and others don't  
15 feel that everything was spelled out but the question that  
16 I have is, is there any procedure, I think the answer is  
17 yes, to educate staff at the Arizona State Prison as to  
18 the Copple or Yapnik or Taylor order?

19 A Specifically in the department of corrections, yes.  
20 Part of the new training program which has been initiated  
21 involves training specifically on the Copple ruling. That's,  
22 and I would have to defer to the training officer and it  
23 was when I was working in the program, one-half-day's  
24 training on that, a four-hour session, specifically rule by  
25 rule as to what was contained in there. That's followed up by

1 a session which I've been doing for about six or seven  
2 months, up until just recently in which we talk about staff's  
3 rights, vis a vis inmates' rights, we talk about civil  
4 rights, we talk about just what we've been talking about  
5 for two days with the new staff members.

6 So that they may have some appreciation and put the  
7 new rules in perspective and see where they came from. It's  
8 perhaps minimum compared to what you might think would be  
9 proper education, but I don't know of any place else that's  
10 doing anything like that and believe me, we looked for that  
11 when we were drafting the rules.

12 Q I got one other question.

13 A I have one other thing to make and I almost passed  
14 over that.

15 Last semester and hopefully again next year, through  
16 Central Arizona College, a course was offered entitled the  
17 legal system within the correctional institution. Geared  
18 specifically for correctional officers and correctional  
19 personnel. And the impetus, as it were, for that course,  
20 was the Copple decision, the new rules, and about 15 indi-  
21 viduals took that.

22 Q Were they all staff members?

23 A They were all staff members, except for three who --  
24 12 from ASP, three from the federal detention center.

25 Q Do you know what the institution's paid, or the indi-

1     vidual's paid?

2           A     I think it's paid through an LEAA grant to allow  
3     them to further their education or some grant of that  
4     nature.

5                     But at the time we had the entire disciplinary com-  
6     mittee sitting, taking the course. You know, they made it,  
7     people have made an effort to educate themselves in this  
8     field.

9           Q     I have one final question and that's in regard to  
10    library, I understand that you have been working either  
11    with Judge Copple or on your own to do something about the  
12    library and I just wondered if you'd go into that?

13          A     A prefatory comment: When we compare the attorney  
14    general's library to the Gilmore versus Lynch decision out  
15    of California we ain't up to snuff either, we're not even  
16    close.

17          A     (By Mr. Rinaldi.) You ought to see my library.

18          A     (By Mr. Duke.) But the fact is yes, we are. There's  
19    a lot of interest in that and I'm not going to comment on  
20    it specifically because we have somebody will be testifying  
21    in a few minutes that can.

22          Q     You mean Mr. Harris?

23          A     Mr. Harris.

24                     Judge Copple has taken an interest in this because  
25    he gets a lot of business from that place. That's the way

1 it goes. And we have to.

2 And I would like to point out, as unbiasedly as I  
3 can, that the department of corrections is taking an  
4 interest in these and it will be there.

5 Q (By Mr. Levis.) I have one question of Mr. Rinaldi  
6 and I think it relates to the discussion we had concerning  
7 clearing house for civil rights complaints that you mentioned  
8 to me I just wondered if anything has happened to that where  
9 inmates could file civil rights complaints in a central  
10 office where they would be referred to an attorney?

11 A (By Mr. Rinaldi.) To my knowledge, nothing has hap-  
12 pened, the original proposition, I believe, was formulated  
13 between Judge Copple and he and some other individuals  
14 suggesting that perhaps through our organization we could  
15 screen civil rights complaints and weed out the good ones,  
16 like, much as Mr. Hogan suggested an ombudsman would do.

17 Unfortunately, that hasn't come to pass. I don't  
18 know why I say unfortunately, it turns out that my funding  
19 runs out in another three months and there will no longer  
20 be a clinic to assist inmates.

21 In essence, inmates will simply be cut loose to fend  
22 for their own. I feel somewhat bad about the whole thing,  
23 but I guess in this day and age people simply don't want to  
24 appropriate funds for those kinds of things.

25 We've tried to get funding but unfortunately it's not

1 forthcoming.

2           If anybody here knows of any, I'd be more than happy  
3 to accept your suggestion.

4           I think perhaps I might be able to comment on the  
5 disciplinary rules too, since I've appeared probably in  
6 more disciplinary hearings than any other attorney in  
7 Arizona.

8           I say that, assuming that no other attorneys would  
9 take the time to go to Florence any number of times to rep-  
10 resent these people.

11           I think that the officers that run the hearings have  
12 made a very genuine effort to try and carry out the spirit  
13 of the rules, unfortunately, when you use a correctional  
14 officer to, in a disciplinary hearing I've, you know, I've  
15 seen the correctional officers take judicial notice of the  
16 fact, and for example, a sex or a, you know, an alleged  
17 violation relating to homosexual activity we'll say, well,  
18 we all know he's queer. What I'm suggesting is that oftentimes  
19 these people know everybody in the prison, and by virtue of  
20 their prior conception of the individuals, it's often  
21 difficult for them to be unbiased.

22           But I think they try very hard and I've always found  
23 them to be very fair.

24           What I do find is a problem is that I get the feeling  
25 that the administration would rather that I not be there,

1 that I -- rather that I not participate in disciplinary  
2 hearings, and you know, I think that there has been a  
3 purposeful attempt to simply try to get me to stop going  
4 to them, and in fact, it's been successful, because I  
5 don't go anymore.

6 But I don't know that the administration is all that  
7 keen on implementing it, though I must say the correctional  
8 officers try very -- give it a great deal of effort to try  
9 and implement this.

10 A (By Mr. Duke.) Can I respond to that?

11 I would have to disagree with Mr. Rinaldi, on the  
12 last point, that the administration is not so keen on putting  
13 this thing in. The administration put a heck of a lot of  
14 time into its development, and we're dealing with adminis-  
15 trative proceedings, we're not dealing with a court.

16 I don't know too many administrative proceedings  
17 that go on without some preknowledge of what's going on. If  
18 you go to the corporation commission they investigate things  
19 for three months before they ever hear it, they know what's  
20 happening. These people have some prior knowledge but by  
21 the same token, they have expertise that independent people  
22 from the outside would not have.

23 I don't think that if it was a suggestion that because  
24 they're so close to the situation they're not the best judges,  
25 I don't think that that's true at all. I think that in fact,

1 that enhances their quality as judges, as long as they're  
2 not the same person that witnessed the incident and is  
3 making the charge.

4 You have some closeness but you also have some ex-  
5 pertise and some knowledge in the system that you're  
6 operating in, that I think is valuable input into an admin-  
7 istrative proceedings and that's what these are, this isn't  
8 court, this is administration.

9 THE CHAIRPERSON: Mr. Duke, you mentioned a little  
10 earlier that you wanted an opportunity to tell us the things  
11 that were bothering you and I think this is the time?

12 A. Fine, I'll just bring up two things because we're  
13 getting late and I'm getting hungry.

14 With Mr. -- one comment with what Mr. Rinaldi said  
15 and I speak to this very generally because I haven't dealt  
16 with him on the subject, however, I have dealt with the  
17 other side on the subject, of Mr. Rinaldi's participation in  
18 disciplinary court.

19 There was a contractual agreement made several years  
20 ago with the post-conviction legal clinic that they would  
21 deal exclusively in the area of appeal work, criminal appeal  
22 work and tangential areas.

23 I've been informed that the administration has never  
24 been approached to change that portion of the contract.  
25 Admittedly, they're not going to readily do it perhaps they

1 may want to negotiate it, but they haven't been approached  
2 yet.

3 I just offer that for what it's worth, that is their  
4 position on the statement, particularly with regard to his  
5 not attending as an attorney at a discipline court, that's  
6 something that they, by agreement, supposedly won't do.

7 Warden Cardwell also informed me that if Bruce  
8 wishes to attend as a private attorney, attorney of record  
9 for that person, that's a different situation, but when  
10 he attends in his capacity which is the way the warden has  
11 interpreted it to now, as head of the post-conviction legal  
12 clinic, it just doesn't comply with the contract.

13 Maybe that's a technical point and one that could  
14 be taken away, but somebody should approach him and give  
15 him an opportunity to change it and work it out.

16 The other point I'd like to respond to and I'll do  
17 it by example, because for one thing I'm not prepared to  
18 respond to all of the things that came up while the four  
19 inmates were here, there were a lot of allegations, lot of  
20 things came up. Perhaps by giving you this one which we had  
21 our file and could comment to, it may give you an example  
22 of some of the others which we intend by the way, we in-  
23 tend to submit responses to as much of this stuff as we can  
24 remember, particularly with Mr. Hogan.

25 He was the first one and we were taking the best notes



1 and had the most time and not picking on him.

2 Mr. Hogan alleged that he was in lockup from May  
3 through November of 1973. We checked the record on Mr. Hogan,  
4 and I will offer this. The record reflects that on June  
5 14, 1973, he was confined pending investigation for an  
6 action that was taken outside of the institution, pursuant  
7 to the disciplinary rules. Pursuant to the present disci-  
8 plinary rules, pursuant to the interim procedures, December  
9 22 order of Judge Copple.

10 Since it's public record, the reason he was con-  
11 fined was for investigation of an offense which he eventually  
12 pled guilty to and was convicted of, forgery of some court  
13 documents, people from Arizona may have some memory of the  
14 case.

15 There was considerable investigation at that time, the  
16 provision for lockup in this situation was for exactly this  
17 situation. They needed time to investigate, it was turned  
18 over to the county attorney.

19 On September 13, 1973, Mr. Hogan was reviewed by the  
20 reclassification committee, for general population release  
21 with two for one time. This would have been release to  
22 either CB2 or CB4, whichever opening came first, wherever  
23 there was cell room to move into.

24 Mr. Hogan, at that time, declined release. Unless it  
25 was specifically for release to CB4. Which is the newer of

1 the two and the one that has openings less frequently because  
2 of popularity. Mr. Hogan stayed where he was by choice,  
3 he didn't reenter the population so the time frames here  
4 which again we will submit in the form of summary, comply  
5 exactly with the rules that we have. We had an investigation,  
6 a criminal investigation of some substance, considerable  
7 substance and considerable importance to the institution  
8 and to the state as a whole. He was locked up, the rules  
9 were followed, the time periods were followed and we will  
10 submit information on the other ones in that frame of mind.

11 THE CHAIRPERSON: Are there any other questions  
12 of Mr. Duke?

13 A. (By Mr. Rinaldi.) I would just like to address myself  
14 to the one thing he said and then we can all go.

15 There's never been any question in the mind of Warden  
16 Cardwell and I've made it absolutely clear that I represent  
17 inmates through the clinic in my professional capacity as  
18 an attorney, working for the University of Arizona.

19 On some occasions when I feel the situation warrants  
20 it, I, as a private practitioner of the State Bar of Arizona,  
21 have undertaken to represent in the disciplinary hearings.  
22 The reason I do this, there was in fact at one point, a  
23 request for volunteer attorneys to do these kinds of things,  
24 and my colleague and I put in our names as individuals who  
25 would undertake that on a voluntary basis and I've made this

1 very clear to the warden that I represent them as a private  
2 attorney and not as the director of a clinic.

3 I might further add that when I went to the prison  
4 several weeks ago, he told me he did not care if I repre-  
5 sented them as a private attorney or not, he felt that  
6 there was a conflict of interest, he never explained to me  
7 what he felt the conflict was, but he said I could do one or  
8 the other, I could either direct the clinic or I could  
9 represent them in disciplinary hearings as a private attorney  
10 and it was very clear at that time, that he knew that I  
11 was doing the two services in separate capacities.

12 At any rate, I simply have interpreted that and I  
13 believe that it's simply a purposeful attempt on his part  
14 to exclude me from those proceedings.

15 THE CHAIRPERSON: Mr. Rinaldi, the Chair will take  
16 notice of the remarks you're making and we'll ask Warden  
17 Cardwell to comment on that later this evening.

18 If there are no other questions, thank you, Gentlemen,  
19 both.

20 The Chair would now call Major Martinez, Mr. B.J.  
21 Harris and Sergeant Herbert Padilla.

22 Gentlemen, would you state your name, your occupation  
23 and your address, for the record, please?

24 MR. HARRIS: B.J. Harris, department of corrections,  
25 inmate appeals officer and the address for the department of

1 corrections is 1601 West Jefferson Street.

2 MR. MARTINEZ: Major Martinez, I work in prison, I  
3 live at the state prison.

4 MR. PADILLA: I'm Sergeant Padilla, Arizona State  
5 Prison, special duty assignment to training department.

6 My address is 1703 East I Street here in Florence.

7 THE CHAIRPERSON: Thank you.

8 Mr. Harris, before we get into the questioning that  
9 we have prepared, I would like to ask you to respond to the  
10 question that you had raised your hand to prior to this?

11

12

13

B.J. HARRIS

14

15 A. (By Mr. Harris.) Okay.

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The disciplinary committee can in fact recommend that the reclassification committee, as promulgated by the Cople order, that the inmate be removed from a position of trust and confidence, this is a recommendation that they can

1 make, however, it's discretionary with the reclassification  
2 committee as to whether or not they're going to accept the  
3 recommendation of the disciplinary committee. So, in sum  
4 and substance, the recommendation itself comes as a result  
5 of a finding of guilty or in some instances, not guilty,  
6 but primarily on the basis of an individual's behavior,  
7 perhaps the frequency or the number of convictions he has  
8 had, to the reclassification committee to take administrative  
9 action as a result of perhaps some rule infraction.

10 The other clarification I'd like to make is in re-  
11 gard to the situation concerning segregation.

12 I have in front of me the Copple order, and I believe  
13 there was some disparity or confusion in so far as what iso-  
14 lation and adjustment center was all about. And based upon  
15 the Copple order and for purposes of the record, I think  
16 the definition is, apparently condoned by Judge Copple in  
17 his order, states that the definition of segregation is  
18 defined as isolation in adjustment center or administrative  
19 confinement and the application of these particular rules.  
20 That is the Copple order, the application of these rules  
21 except as otherwise noted, apply only to the first two  
22 categories of segregation, and it goes on, then, to point  
23 out that special care is to be assured that a new inmate  
24 in segregation should not become disciplinary segregation.

25 Q (By Mr. Levis.) Mr. Harris, is that from the final

1 order in October that you're reading from?

2 A This is the order of December the 22nd.

3 Q Of what year?

4 A Of 1972 and also -- yes.

5 Q Well, it's my understanding that the final stipu-  
6 lation was October 19, 1973. The one thing I'd like to do  
7 is with your permission, I requested from the department of  
8 corrections definitions of the various terms administrative  
9 confinement, administrative segregation, administrative  
10 ~~detention~~, protective lockup, disciplinary isolation and  
11 deadlock and that has been submitted to us and I think,  
12 for clarification, should be entered into an exhibit at  
13 this time, because I think it does answer the questions by  
14 the department.

15 A Yes, that's clarification of the terms that seems to  
16 be of some confusion at this point.

17 THE CHAIRPERSON: We will enter it into the record  
18 as an exhibit.

19 Mr. Levis, did you have additional questions?

20 A Wait just a second, Madame Chairman.

21 THE CHAIRPERSON: Did you have another point?

22 A Yes.

23 There was so much covered by the four inmates that  
24 we had up here that I couldn't possibly respond due to the  
25 hour and I felt that there was quite a bit of confusion.

1           The care and custody treatment, for instance, was  
2           couched in some form to be considered by this Committee as  
3           a disciplinary proceeding. I'd like to clarify that and  
4           state that we acknowledge the fact that we do have 24, 25,  
5           perhaps more people in care and custody. Out of the 1,400  
6           inmates. We recognize that's a fact of life. However, on  
7           the other hand, this is not a matter that we handle in  
8           disciplinary proceedings, we're not concerned with care and  
9           custody, that's strictly administrative and perhaps Mr.  
10          Moran at some future time or Mr. Schuster, can address  
11          themselves to the care and custody question.

12           The class action question is not a class action as  
13          such, what we have been doing in the department of correc-  
14          tions has been to work along with the federal courts in  
15          an attempt to resolve the situation that resulted from last  
16          year's unrest.

17           As a result, we've come up with an informal manner  
18          in which we might, we are attempting to resolve the property  
19          issue, what has happened is that the federal courts and  
20          I believe it's Judge Craig, have entered into the picture  
21          and suggested that we handle this particular matter in-  
22          formally and he has appointed a lawyer, and as a result,  
23          the lawyer is gathering up the cases that are similar in  
24          nature so that we may handle this case. This particular  
25          matter at a later date.

1 Another thing came out about the jurisdiction of the  
2 federal court in so far as disciplinary proceedings are con-  
3 cerned. Here I'd like to point out again that the federal  
4 court, if I might use the expression, has jurisdiction over  
5 disciplinary matters primarily because of the possibility  
6 of a civil rights issue involving the sentence that one  
7 receives in disciplinary hearings and also for purposes of,  
8 as we all know, protecting one's liberties and precluding  
9 cruel and unusual punishment.

10 So, inmates are constantly providing the federal  
11 courts as we use the common expression through kites or  
12 petitions or various other means of getting attention.

13 The law library, I believe, was also mentioned.

14 Q. (By Mr. Levis.) You can talk about that now, we can  
15 dispense with those questions if you want to get into that  
16 issue right now.

17 A. Right, the law library was also mentioned, by the  
18 four inmates, and I'd like to bring it to the Committee's  
19 attention that we have been working diligently along with  
20 the federal courts, recognizing that our law library was  
21 in the past somewhat inadequate. And as a result of our  
22 informal work with the courts, we have been able to come up  
23 with various sums of moneys and we have purchased various  
24 textbooks for the law library, in fact, as of January 25,  
25 1974, this year, we purchased some \$1,600.00 in legal material,



1 recognizing all along that this would not, by any means, be  
2 very significant form, but at least recognizing that it  
3 would be better than nothing, we went ahead and purchased  
4 some very meaningful and needed materials.

5 In addition to that we have an LEAA grant for some  
6 \$25,000.00, earmarked for, specifically for a library, and  
7 we will probably get, if not this year, early next year, so  
8 we're doing the best we can.

9 And just as soon as they can act upon our proposal,  
10 then you might say we will be in good stead.

11 I admit that the particular grant that we're talking  
12 about is \$25,000.00, and the reason I mention that is be-  
13 cause we asked the West Publishing Company, who I'm sure  
14 you know is one of the leading publishers in so far as  
15 legal materials are concerned, to come up with a study of  
16 what they would consider and recognizing the fact further,  
17 that they are in the business of making money and selling  
18 a lot of textbooks, a study of what they would consider a  
19 good start, in so far as the minimum and maximum types of  
20 materials that you would have in a law library.

21 I might add at this point that I have the study here  
22 and we're willing to go along and we will be going along  
23 just as soon as we get those moneys and purchase these books  
24 for all three of our adult institutions, that will be  
25 Safford, naturally, Fort Grant and ASP. So, I have here the

1 study conducted by West and their recommendations which we  
2 will follow so long as they are reasonable and we believe  
3 that they are reasonable.

4 Q Can we have a copy of that for the record?

5 A Yes.

6 In addition to -- well, while were at it, while we're  
7 talking about the law library, I might add that in so far  
8 as the hours are concerned, and the availability and the  
9 use of the privilege of doing legal research by the inmates  
10 at Arizona State Prison, we, as I have already submitted  
11 fully adhere to the Gilmore V Lynch decision and also the  
12 Johnson V Avery decision, we don't quibble with it. What  
13 we try to do is work according to the mandate set forth  
14 in those particular decisions so that we won't be caught  
15 short.

16 One other point and then we'll get to whatever you want  
17 to get to, Madame Chairman.

18 The other point deals with the sentencing or the  
19 possibility or the maximum sentence you might call it, that  
20 one might receive as a result of a rule infraction.

21 Judge Copple, in his wisdom, set forth the 15-day  
22 limitation. And this does not necessarily mean that one's  
23 going to receive 15 days for a particular rule violation,  
24 what it does say, in effect, is that he can receive up to  
25 15 days, and naturally, receiving up to 15 days per violation

1 will depend upon the nature, the severity, the frequency  
2 and other considerations by the committee.

3 In getting the full 15 days. And in no event will  
4 the individual receive beyond 30 days for multiple violations  
5 which means that if he committed four or five offenses  
6 like in the past some inmates have, he could receive no  
7 more than 30 days in isolation. So, in that regard, we might  
8 say that comparatively speaking we are in a little bit  
9 better shape than the State of Kentucky.

10 Naturally, we abide by the Hook decision, which is our  
11 mail regulation set forth by Judge Muecke, and at this  
12 point I won't go into some of the reports that I've read.  
13 I think they're confidential.

14 Q Mr. Harris, we've heard about your disciplinary  
15 procedures and I think one thing that hasn't been explained  
16 is the due process provisions in there, where an inmate who  
17 appears before the committee and I just wondered if you could  
18 comment on those procedures?

19 A Okay.

20 Q What I'm concerned about is what rights does an in-  
21 mate have?

22 A Basically, I think what Judge Copple was talking  
23 about as set forth in the order, was whether or not an  
24 individual should have an opportunity, first of all, to be  
25 put on notice when he allegedly has committed some sort of an

1 offense, notice, as you know, is very important in the  
2 free world type operations. We're talking about whether or  
3 not he has an opportunity to cross examine witnesses or to  
4 have witnesses in his own behalf. Whether or not he  
5 has a right to counsel or counsel substitute. Or a right  
6 to enter a plea and fully understands that particular plea.

7 He has a right to the findings by the committee in  
8 so far as the disciplinary proceedings are concerned.  
9 We're talking about something similar to, in nature, what we  
10 have in the free world, modified and limited only by the  
11 isolated population and naturally the people, the committee  
12 kind of thinks, you know, on the outside you have courts  
13 and they adhere strictly to the rules of evidence. On the  
14 inside we're talking about lay people attempting to administer  
15 justice as they see fit under the Copple order. And due  
16 process naturally goes on and on.

17 Q At this point, maybe we should get into what your  
18 job is as an appeals officer and I wonder if you could just  
19 summarize that, and also we requested from the department  
20 of corrections which they have provided us, the decisions  
21 of the disciplinary committee since October 19, 1973, and  
22 also your appeals decisions and instead of going into  
23 particulars, I just would like to submit this to the  
24 record.

25 It's based on submission by the department of correc-

1 tions. I wonder if you could, then, just describe what  
2 your job is, what your duties are and what your powers are?

3 A. Okay, let me begin at the highest and say that in  
4 so far as the disciplinary matters are concerned, excluding,  
5 naturally, the federal courts, specifically Judge Copple,  
6 I am the supreme court in this particular type of pro-  
7 ceeding.

8 Q. Mr. Justice -- Mr. Chief Justice, I should say --

9 A. I think the rules set forth specifically what the  
10 duties I have in so far as attempting to serve or serve  
11 as an appeals officer.

12 Primarily, my function is to review the record, the  
13 entire record, as you probably well-know, we have not only  
14 tape recording but also certain procedural steps that must  
15 be followed in order to render a particular proceedings as  
16 being one that accomplishes our task of administering due  
17 process.

18 I'm, in other words, to make sure that this procedural  
19 step, the procedural steps that have been followed from  
20 one to 20 or whatever they might be.

21 While at the same time, I am to look and determine  
22 whether or not the committee that did administer what you  
23 might call due process, whether or not the individual had a  
24 fair hearing, you know.

25 In other words, the feelings that the inmate is to

1 receive and to assure that he receives and as you probably  
2 know by now, in so far as the Copple decision is concerned,  
3 the inmate, and don't tell the inmates this, can appeal  
4 on the basis of -- of a denial of due process, in fact,  
5 a blanket denial of due process can be the basis of their  
6 appeal.

7 At that time, I'm obligated as would be the supreme  
8 court, to look into the matter. So, I look into it to  
9 determine whether or not the decision is in accord with the  
10 mandate set out in the Copple decision.

11 Q Just for the record, you are an attorney, is that  
12 not correct?

13 A Yes, not in the State of Arizona, however, and un-  
14 fortunately, and all those other mighty fine things.

15 Q But you are licensed in at least one other state?

16 A Yes, the State of Texas.

17 Q Could you just describe, then, what your position is  
18 within either the department of corrections or the Arizona  
19 State Prison, if anybody supervises your work as such?  
20 Because if you're the supreme authority, what do they super-  
21 vise, who do you work for and --

22 A Well, I wasn't elected, I wasn't appointed, I was  
23 selected. My immediate supervisor, naturally being the  
24 structure of the department of corrections, would be Jack  
25 Schuster. And also John Moran. I answer to them primarily,

1 from the standpoint of being a fescient (Phonetic) person, if  
2 that's a proper expression, they don't influence my  
3 decisions at all, in fact, if anyone influences my decision,  
4 it could be perhaps Joe Duke and that is when I go over  
5 to attempt to resolve some quasi-legal-quasi-hearing type of  
6 situation, oftentimes I consult Joe Duke. But in so far as  
7 supervising is concerned, you might say Mr. Moran and Mr.  
8 'Schuster.

9 Q But if your decision is not reviewed by them, is it?

10 A I beg your pardon?

11 Q Are your decisions reviewed by them?

12 A Yes, it is, it's reviewed from, it's reviewed by  
13 everyone from the inmate on up to the warden to Mr. Moran.

14 Q I mean, but you are the supreme court, they don't  
15 get to overrule it?

16 A Oh, no, if you are talking about judicial review or  
17 something of that nature, no. Review can be confusing.

18 They look at my work, presumably to make sure that I'm  
19 doing my work. And my work is to address myself to the  
20 appeals that I receive, and I don't believe that I could  
21 operate if I had to go beyond the Copple decision to seek  
22 some sort of an opinion other than naturally talking with  
23 my colleagues. Cleon Duke.

24 Q How long have you been in this very secure position?

25 A Approximately four months and some days, I don't

1 know what, October the 25th or whatever it was, but it's  
2 right around that time.

3 Q In other words, if an inmate was to appeal your  
4 decision he would have to go into federal court, under 1983,  
5 probably, or some other section?

6 A According to the Copple order that would be the only  
7 way that he would have redress in so far as my decision is  
8 concerned.

9 MR. LEVIS: I've no other questions of this witness.

10 THE CHAIRPERSON: Does anybody else on the Committee  
11 have a question of Mr. Harris?

12 Q (By Rep. Guerrero.) I just had one question, Madame  
13 Chairman.

14 You mentioned that on January 25th there'd been  
15 \$1,600.00 expended for legal material?

16 A Yes, but mind you, Representative Guerrero -- I'm not  
17 good with rolling my R's, Guerrero, that's true, \$1,600.00  
18 was spent.

19 I could have spent it back in '73 when I was first  
20 hired on but at that time I had to, naturally, do a good job  
21 to see what was needed in so far as legal materials and  
22 how best to spend \$1,600.00, bearing in mind that I was promised  
23 some \$25,000.00, which I apparently will be getting to spend  
24 for legal materials.

25 Q But you did expend \$1,600.00 this year, January 25th,



1 for legal material?

2 A Yes.

3 Q Have you received that material, now, at this point?

4 A Yes, unfortunately we didn't receive two volumes,  
5 as I recall, volume 9 of Arizona Appeals~~more~~Arizona  
6 Reports, I'm not sure which one it was, but I did go by  
7 and check with the people at ASP in the law library and  
8 also with the business section and I found that we were  
9 missing two volumes from the \$1,600.00 purchase order.

10 Q Well, I understood, Mr. Harris, that there was a  
11 deficiency in the library of volume 9 and volume 109,  
12 were these purchased?

13 A Volume 9?

14 Q Nine.

15 A And volume --

16 Q I believe there was a mention of 109 and volume 9?

17 A Yes, that would probably be -- well, I don't know  
18 which, I know it has something to do with Arizona Reports or  
19 Arizona Appeal Reports, it's either volume 9 and 109 or  
20 volume 9 and 109 or something else, I don't know, but I  
21 think it's just a couple volumes.

22 Q Did you state, Mr. Harris, that these were purchased?

23 A Yes, they were purchased.

24 Q And there's still a deficiency in the library of  
25 these two volumes?

1 A They're -- the two volumes are missing from the  
2 \$1,600.00 purchase.

3 Q Well, they didn't arrive with the consignment?

4 A I beg your pardon?

5 Oh, he did not arrive with the consignment or he  
6 didn't arrive with the full purchase as we ordered it.

7 Q Has he been notified that these volumes were already  
8 paid for and didn't arrive with the shipment?

9 A Yes, we have gone on record, that is the librarian,  
10 Mr. Au, notified Mr. Gomes that these materials were short  
11 in so far as this shipment is concerned, and naturally,  
12 you know, in the --

13 Q Mr. Harris, could you please state to me who these  
14 volumes were purchased from or this legal material was  
15 purchased from and their address?

16 A Okay. These materials were purchased from the West  
17 Publishing Company, apparently Western representative, Mr.  
18 Art Grucky, that's G-r-u-c-k-y, at -- he lives in Tempe,  
19 Arizona.

20 THE CHAIRPERSON: Mr. Guerrero, the Chair will note  
21 that this is probably a matter that should be taken up  
22 between Mr. Harris and the publishing company and I doubt  
23 that it's one that we should have to involve ourselves in.

24 The Chair would also note to members of the Committee,  
25 that if they wish to ask more than one question, I wish they

1 would please so note when they begin questioning.

2 REP. GUERRERO: Madame Chairman, I think we're dis-  
3 cussing the library and the effort to update the library  
4 and if these volumes were ordered and in fact are not here  
5 I just wondered what happened to them. If they were, if they  
6 arrived with the consignment that's all I was stating on  
7 the subject.

8 THE CHAIRPERSON: I think Mr. Harris has replied  
9 that they did not arrive and they don't know whether they  
10 arrived or not.

11 A But we'll be on West's back because we gave them  
12 such a large purchase order they promised to get them down  
13 here, so if they're going to do business with us they've  
14 got to do it better than this.

15 THE CHAIRPERSON: Thank you, Mr. Harris.

16 Are there any other questions of Mr. Harris?

17 Q (By Ms. Palmquist.) Mr. Harris, was there an appeals  
18 officer prior to your coming or is this a recent innovation  
19 of the new administration?

20 A Not as a result of the administration, but as a  
21 result of the Copple order. The Copple decision.

22 I believe that when it became final in the order  
23 itself, in fact, I know it was stipulated, and as a result  
24 rather than Mr. Moran being in contempt of court he had to,  
25 and probably wanted to comply with the order, he hired B.J.

1 Harris, I guess.

2 Q. Was there no appeals officer prior to this time?

3 A. I don't know, I wasn't that concerned with the State  
4 of Arizona and their appeals thing, as I understand it there  
5 was some sort of a, I guess you might say a post-conviction  
6 remedy and it was probably with the warden, this is just  
7 speculation and not saying with Warden Cardwell, but Warden  
8 Eyman, perhaps, or somebody, I don't know, but to my know-  
9 ledge that's basically what happened.

10 THE CHAIRPERSON: Ms. McCullah, you had a question?

11 Q. (By Ms. McCullah.) Mr. Harris, in ordering the  
12 legal material, do you give some recognition to the re-  
13 quests from the inmates if they want some specific sort of,  
14 you know, copies of books or any kind of subscription in  
15 the legal -- that may help them in their work?

16 A. Well, let me answer that question by saying this:  
17 Gilmore V Lynch and Johnson V Avery and a couple other  
18 cases were companion cases or they came about about the  
19 same time. Some oddball reason Arizona wants to stay abreast  
20 with California and the other states and oftentimes our laws  
21 are adopted or our decisions are coming from California.

22 We are constantly looking at California and other  
23 great states like the State of Texas, to see what the law  
24 should be.

25 Gilmore V Lynch came down, we felt that maybe we should

1 be attempting to do something about our law library, in fact,  
2 long before the word came down that maybe the courts might  
3 be interested in entertaining a suit, we were talking about  
4 and I guess that was about five months ago, maybe before,  
5 getting an adequate law library, something that we recognize  
6 that we needed at that point in time.

7 And let me just say this much, I'm a lover of the  
8 law and if they put me on that particular project, that's one  
9 that I'll work with because there's nothing to me like a  
10 beautiful law library or something of that nature. It's  
11 fascinating.

12 THE CHAIRPERSON: Ms. McCullah, do you have any other  
13 questions?

14 MS. McCULLAH: No.

15 THE CHAIRPERSON: Are there any other questions of  
16 Mr. Chief Justice Harris?

17 REP. GUERRERO: Well, I don't know if I want to ask  
18 any more, I might be called to order.

19 THE CHAIRPERSON: All right.

20 The Chair would like to take note at this time and  
21 make the latest announcement.

22 Major Martinez and Sergeant Padilla, I hope you  
23 don't take what I'm going to say next personally, because  
24 I know the work that you're doing, it's very important.

25 However, I think, it's rather important also, that we

1 recess at 8:00 o'clock this evening so we're going to make  
2 the questioning of both of you very short.

3 We will recess for one hour, when we come back we  
4 will take the academic and vocational education panel for  
5 approximately 40 minutes. Since Mr. Harris has already  
6 testified to the library, we will not take that portion on  
7 the second panel this evening, we will deal just in  
8 recreation and commissary for approximately 30 minutes.

9 At which time we will then call the women from the  
10 women's prison in for approximately 10 minutes. We will  
11 then have closing statements by both Warden Cardwell and  
12 Mr. Moran.

13 We would ask that, if possible, you limit your  
14 remarks to ten minutes each -- five minutes? Fine.

15 After that we will have the model baseline criticism  
16 for ten minutes.

17 Now, we have asked the gentlemen who have volunteered  
18 to participate in the model baseline criticism if they would  
19 limit themselves to ten minutes and submit anything in  
20 writing that they would wish to the Commission.

21 With those ground rules, ground rules at least number  
22 6, I will turn it over to Mr. Levis.

23 MR. MUSKRAT: Madame Chairman, may I add one thing,  
24 if you gentlemen feel that there's some information that you  
25 want the Committee to have that you don't have time to say,

1 submit it to us in writing within 30 days and it will be  
2 included.

3 Q (By Mr. Levis.) Sergeant Padilla, I understand  
4 you're training officer and I just wondered if you could  
5 briefly tell us what the training standards are at the  
6 Arizona State Prison and if it contains any provisions  
7 for training on the disciplinary procedures?

8  
9  
10 HERBERT PADILLA

11  
12 A (By Mr. Padilla.) Well, I didn't bring a schedule of  
13 the training.

14 Q I just wondered if you could outline it briefly?

15 A Okay.

16 Very briefly, we have three weeks of classroom in-  
17 structions for the new employees, correctional officers,  
18 we have various different people from different departments  
19 within the department of corrections come in and give lectures  
20 on different subjects, I'll just name a few for examples.  
21 We have Mr. B.J. Harris come in and explain the Copple  
22 decisions and rules, we have Major Martinez who'll come up  
23 and explain the rules and regulations of the Arizona State  
24 Prison, and how to enforce them. We also have another  
25 lieutenant from the prison that will come up and assist him on

1 this. And we have psychologists, if I may name him, Mr.  
2 Bill Rhode, that comes up and gives a lecture and all of  
3 these are not limited to just one hour, some classes are  
4 like, for instance, Mr. Rhode's class is as much as four or  
5 five hours long.

6 Other classes are two hours, three hours, some are one-  
7 hour classes, such as mail room procedures and inmate  
8 clothing and supplies.

9 We have the department of public safety come out  
10 and instruct them on other portions of the training class.  
11 It totals out to about three weeks.

12 Q I understand this training program began September,  
13 is that correct? This in-depth training program?

14 A. Right around September.

15 Q And before that was it a cursory training program,  
16 or what was it?

17 A. Pardon?

18 Q Before September, what kind of training program was  
19 there or was there a training program?

20 A. There was a training program, it wasn't as extensive  
21 as it is now and hopefully to be more extensive later.

22 Q Now, I also understand that you have trained and  
23 correct me if I'm wrong, I'll just list a few in firearms,  
24 batons, chemical agents, restraint, inmates and human re-  
25 lations, is that correct?



1 A Yes, that's correct.

2 Q Do you have any training on minority groups, minority  
3 group cultures?

4 A What do you mean by minority group cultures?

5 Q We've had testimony today and yesterday about the  
6 differences in ethnic cultures and I just wondered if the  
7 staff is trained in relating to different ethnic groups,  
8 specific training in that?

9 A Not any specific training in different ethnic groups  
10 other than, you know, teaching the new officers to treat  
11 everybody fairly, not pick on any one particular ethnic  
12 group or anything like that.

13 Q But I mean do you have any lectures by members of  
14 different ethnic groups as far as human relation training?

15 A Well, the classes that we have on basic human re-  
16 lations kind of envelops all the ethnic groups.

17 MR. LEVIS: I have no further questions of this  
18 witness.

19 THE CHAIRPERSON: Does anyone have any questions of  
20 Sergeant Padilla?

21 If not, Mr. Levis?

22 Q (By Mr. Levis.) Major Martinez, I wondered if you  
23 could just give us an idea of what your job assignment is  
24 at the Arizona State Prison?

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JOE MARTINEZ

A. (By Mr. Martinez.) I'm in charge of security.

Q Do the correctional service officers report to you  
or --

A. Through the lieutenants and captains, yes.

Q Are you, as the major, as I understand, is one of the  
top correctional service officers?

A. Yes, sir.

Q What are there, two majors?

A. There are.

Q And they supervise all the officers through the  
lieutenants, you said?

And just for a point of information, are there any  
rules or regulations prohibiting corporal punishment or  
is that covered by the disciplinary procedures that have  
been testified to?

A. Well, it's in our training, we don't, we don't use it.

Q You don't use corporal punishment?

A. No.

Q Do you use any force at all in restraining inmates  
at any time?

A. If we have to, if it's necessary, we use the force  
that's required to put a man in a cell or if something's  
wrong we have to do it, we do what's necessary.

- 1 Q Do you only use the force necessary, then?
- 2 A Right.
- 3 Q This is the only force that you are allowed to use?
- 4 A Yes.
- 5 Q Based on your experience, what is the condition of  
6 inmate-staff relationships, is it one of fear, tension or  
7 mutual respect?
- 8 A I don't -- I don't find fear in there, it's --
- 9 Q Is there any problem with inmates who do not speak  
10 English in relating to correctional officers?
- 11 A Not with me, I speak both.
- 12 Q How many officers are there?
- 13 A We have roughly 270 right now.
- 14 Q How many officers are bilingual?
- 15 A I don't know.
- 16 Q Is it five, ten, 15?
- 17 A No, more likely a 100, probably.
- 18 Q Approximately 100 bilingual?
- 19 A I would estimate that.
- 20 Q You're talking Spanish-English, is that correct?
- 21 A Yes.
- 22 Q So, inmates who do speak Spanish are able to converse  
23 with other inmates in Spanish and with the officers, even  
24 if they do speak English?
- 25 A Right.

1 Q Based on your experience, are inmates in isolation  
2 visited by doctors on a regular basis or by CMA's?

3 A They're visited by CMA's and if they want to refer  
4 them to a doctor, they take them to the hospital.

5 Q How often are they visited?

6 A Every day.

7 Q And how often do inmates in isolation receive visiting,  
8 exercise and showers?

9 A Visiting they don't -- we don't hold them from visits.

10 Q Excuse me?

11 A We don't hold them from visits, they can go out when  
12 somebody comes up.

13 Showers and exercise, three times a week.

14 Q Except when the security of the institution is  
15 threatened, is that the exception?

16 A Yes.

17 Q Now, we heard testimony previously that inmates are  
18 not provided with showers and/or exercise three times a  
19 week, is this an occurrence that happens frequently or only  
20 once in a while?

21 A No, there's records kept and we always have good  
22 weather, there's always somebody out exercising.

23 Q There are records kept when there are not --

24 A If, for some reason, they don't go out because it's  
25 raining or something, we'll either exercise them inside and

1 make a record of it.

2 Q So these records are on file with the state prison?

3 A Right.

4 Q So we could get a copy of these?

5 A Right. They're kept on the cell blocks.

6 MR. LEVIS: I have no further questions of this  
7 witness.

8 THE CHAIRPERSON: Does anyone on the Committee have  
9 any further questions of Major Martinez?

10 If not, we'll recess until 9:00 o'clock.

11

12 (Recessed from 8:00 p.m. to 9:00 p.m.)

13

14 THE CHAIRPERSON: We will reconvene the Commission  
15 on Civil Rights hearing.

16 The Chair would call Mr. Raymond Chatman and Mr.  
17 Ralph Miranda to the stand, please?

18 Mr. Chatman, and Mr. Miranda, would you state your  
19 names, address and occupation for the record?

20 MR. CHATMAN: My name is Ray Chatman, my address is  
21 Post Office Box 30,357 Arizona State Prison, Florence,  
22 Arizona.

23 THE CHAIRPERSON: Thank you.

24 Mr. Miranda?

25 MR. MIRANDA: My name is Chico Miranda, I'm photographer

1 at the Arizona State Prison.

2 THE CHAIRPERSON: Thank you.

3 Mr. Williams?

4 MR. WILLIAMS: Mr. Chatman, can you tell us how long  
5 you've been at the Arizona Prison?

6  
7  
8 RAY CHATMAN

9  
10 A. (By Mr. Chatman.) I've been here three years, about  
11 a month, 15 days.

12 Q. (By Mr. Williams.) Can you tell me roughly the vo-  
13 cational training opportunities that are available at the  
14 prison?

15 REP. GUERRERO: Madame Chairman, I'm going to have  
16 to leave the room.

17 THE CHAIRPERSON: Please continue, Mr. Chatman.

18 A. Would you repeat the question?

19 Q. (By Mr. Williams.) Yes, I want to outline the vo-  
20 cational rehabilitation programs available at the prison?

21 A. Well, they have a welding, upholstery, body and  
22 fender auto shop in the OT area.

23 Q. Can anybody participate in these vocational programs?

24 A. Well, I think, I think that it regulates the way you  
25 have to have a year or so to do before release, so -- that's

1 how it goes, I think you have to have a year before you're  
2 released from prison, you know, in order to get into these  
3 classes.

4 Q Do you know of any of the inmates of the prison  
5 who meet the qualifications that have not been able to get  
6 into the programs?

7 A Well, there have been -- I've talked to some that  
8 have been -- that have put in, applied for enrollment in  
9 these particular trades, but were not accepted, they didn't  
10 state the reason why they wasn't accepted, I don't think  
11 that they were told.

12 Q Do you think, being a minority in the prison has  
13 any effect on getting into the vocational programs?

14 A Well, I couldn't really say, there's not many Blacks  
15 in these vocational trades unless they observe your welding,  
16 which is one of the trades that most Blacks are interested  
17 in, let's see, in '72 there were two, let's see -- no, there  
18 were -- they had a -- they had evening classes and a -- and  
19 morning session.

20 I think there were two, there were two in the morning  
21 session and two in the evening session. This year I've  
22 only seen two.

23 Q You mentioned Black, how about the Mexican American  
24 or the American, Native American?

25 A Well, I didn't, I didn't really pay attention to other

1 specific ethnic groups.

2 Q To your knowledge, do you need a GED to get into  
3 the vocational training programs?

4 A No, I don't think you do.

5 Q How important do you feel that testing is that's  
6 done prior to going into these programs, do you think the  
7 testing is really relevant to get into the programs?

8 A Would you repeat that again?

9 Q The testing that's required to get some of the vo-  
10 cational programs, is this testing really relevant? Does  
11 it really make any difference as to the person's quali-  
12 fications to get into the program?

13 A Well, I don't know anything about any testing to enroll,  
14 to be enrolled in the class, only that, like I say you have  
15 to be, you need to be a year before you're being released  
16 or even, you know, going up to parole.

17 Q Have you applied to any of these programs?

18 A No, not any -- not in the vocational. I've taken  
19 the test to, in IBM.

20 Q What kind of IBM program is available?

21 A I think it's computer programming, data processing.

22 Q Is that taught by the inmates here?

23 A Would you repeat that again?

24 Q Is that program taught by the inmates at the prison  
25 or by the outside?



1 A. I don't know who do the teaching, I think some of  
2 the inmates do and I think they have a representative from  
3 the outside, also.

4 MR. WILLIAMS: That's all the questions I have for  
5 Mr. Chatman.

6 THE CHAIRPERSON: Mr. Guerrero, do you have some  
7 questions for Mr. Chatman?

8 REP. GUERRERO: Yes, I think, Madame Chairman, that  
9 the question was asked of Mr. Chatman that if he met the  
10 qualifications of participating in these programs and he  
11 stated that yes, or -- did he state yes?

12 Did you state that you did?

13 What I'm trying to get at, what are the qualifications  
14 that you need to participate in these vocational training  
15 programs?

16 A. I don't know as -- know any of the qualifications,  
17 only thing that I've ever read in the newspaper that they  
18 have inside the walls there is that you have to have a year  
19 before going home or you are attending, going to a parole  
20 meeting every six months.

21 Q (By Rep. Guerrero.) Mr. Chatman, how long have you  
22 been in this institution?

23 A. Three years, one month, 15 days.

24 Q. How much more time do you have to do?

25 A. I was sentenced to a 40 to life.

1 Q Four years?

2 A No, I said 40 to life, so I wouldn't know.

3 Q Forty to life.

4 You've been here three years, have you ever seen  
5 more than -- how many persons on each vocational training  
6 class, about 12?

7 A I would say about anywhere from 18 to 20.

8 Q Eighteen to 20 in each class?

9 A Yes.

10 Q And you have two classes, one in the morning and one  
11 in the evening?

12 A I think in welding now they only have from, in the  
13 morning to -- and it turns out around about 3:00, 3:30.

14 Q Two classes?

15 A No, one.

16 Q One class?

17 A Yes.

18 Q And how many did you say was in the class, 18?

19 A Anywhere from 18 to 20.

20 Q And you saw only two Blacks in this class?

21 A Yes.

22 THE CHAIRPERSON: Excuse me, Mr. Chatman, are you  
23 referring specifically to the welding class when you're  
24 speaking of this one class?

25 A Yes, to the welding.

1 THE CHAIRPERSON: How many other classes did you  
2 say are offered at the prison?

3 A There's the computer program, data processing,  
4 upholstery, auto mechanics and body and fender.

5 THE CHAIRPERSON: Do you know the racial distribution  
6 in any of those classes?

7 A No.

8 THE CHAIRPERSON: Mr. Guerrero, do you have other  
9 questions?

10 Q (By Rep. Guerrero.) Yes.

11 Is that all the vocational education classes you  
12 have, are those six? Do you have drafting?

13 A Yes, sir, and drafting.

14 Q That's six, right?

15 A Right.

16 Q (By Mr. Williams.) Mr. Miranda, do you know of any  
17 qualifications or special qualifications needed to get into  
18 vocational training aside from the length of stay in the  
19 institution?

20

21

22

RALPH MIRANDA

23

24

25

A (By Mr. Miranda.) Yes, there's various qualifica-  
tions you have to meet to get into the trades. You have to

1 pass certain aptitude tests, certain wording tests, pathology  
2 tests, the regular California achievement test, you have to  
3 test out a certain grade level and then, from there, you  
4 have to have interviews and so forth with certain personnel,  
5 you have to go through certain screening committees, you  
6 have to go right on down the line before you actually get  
7 your foot inside the vocational trade.

8 Q Is there any provision made for inmates who don't  
9 speak English or read English, to take these tests?

10 A In previous administration or at other times there  
11 wasn't, as of late there has been, in this instance, the  
12 test was made and simple words was made simple, and it  
13 wasn't -- to put it plainer, the test that they had was  
14 standard Anglo test that Chicano or any other ethnic group  
15 had to test out at their level or else they couldn't  
16 qualify for the vocational training.

17 And it wasn't that the actual test was hard, it was  
18 that they were given the same amount of time to read a  
19 certain page as an Anglo was given, and they were having  
20 trouble finishing in the same time, although they changed  
21 the test, so forth.

22 And now they've had a lot of the ethnic groups re-  
23 tested and they've been able to get back into vocational  
24 trades because they've tested out higher than they originally  
25 did.

1 Q Do you have any idea of the racial breakdown of the  
2 vocational programs offered?

3 A Yes, I do. There is five or six vocational trades  
4 being offered, I don't consider IBM or data processing  
5 one of them because you have to be excellent as far as I'm  
6 concerned, as far as education-wise, all the way.

7 Very few out of a 100 qualify for something like that.  
8 So, I don't even consider that a trade, really.

9 The other trades, like body and fender and auto  
10 mechanics, even if you pass the test, even if you qualify,  
11 your custody has to be it because it's outside the walls,  
12 so those don't really qualify for most of the population,  
13 inside the prison.

14 The only ones that really qualify are drafting,  
15 welding and upholstery, and of those three, again you have  
16 problems with Chicano in drafting, because all the texts  
17 are Anglicized and so forth again. The only really ones  
18 that you get into are upholstery and welding and as of late  
19 they're eliminating upholstery so that only leaves a  
20 welder.

21 The racial breakdown about a year ago was, I think,  
22 enrollment was about 130, 140, and of that there was about,  
23 I'd say ten Mexicans or Chicanos, Blacks I'd say about 25 and  
24 the rest were Anglo.

25 Q Is there any effort made in the facility to apply the

1 training that's obtained in the programs on a practical  
2 basis?

3 A I'm not sure I understood that.

4 Q In other words, if you take a welding shop, are you  
5 allowed to do any welding of the vehicles or any particular  
6 maintenance function that you've learned as a way of life,  
7 or as a job, in the prison facility?

8 A Let me put it this way, up till now, no. Usually  
9 you can go take a trade, it can be welding it can be uphol-  
10 stery, and upon its completion you might wind up working  
11 in a kitchen or on a gang or whatever, they usually don't  
12 follow up unless, like Chatman was saying, that one of the  
13 qualifications is that upon termination of the trade that  
14 you go into, you have to be at least six months short to  
15 appear before the parole board or be considered for parole.

16 So, in a sense, if you are paroled, there, the vo-  
17 cational ETS administrator and so forth, sometimes assist  
18 you in getting employment outside or financing, or whatever.

19 Q For the inmates who would qualify for the time,  
20 in other words, they're coming out within a year, do the  
21 counselors provide any aid to the inmates, as far as vo-  
22 cational or academic education?

23 A Yes, the counselors that are affiliated with voca-  
24 tional rehab. do, not the counselors of the regular institu-  
25 tion, no.

1 Q Is there any remedial work, in English or reading,  
2 available in the institution, available to the inmates?

3 A You mean in regular education courses?

4 Q Yes. To teach people who can't read to read and  
5 this kind of thing?

6 A Yes, there is, but it's mostly handled through their  
7 own, what I mean is convict aides and teachers and so forth.  
8 They do have some assistance from teachers and so forth,  
9 but it's, I think it's one or two teachers and the rest  
10 are all convict assistants or inmate assistants, whatever  
11 you want to call them.

12 Q Do you know whether any of the trades or programs  
13 are being expanded to handle more of the inmates?

14 A If they could be, or if they are?

15 Q Are they being presently expanded?

16 A They're presently being expanded but at another area  
17 like at Fort Grant or something else.

18 At the institution, no, they're not, and the facility  
19 they have now don't accomodate the people that they have in  
20 them now.

21 Q I'd like to address this to both of you, do you feel  
22 that more of these programs would be beneficial to the  
23 inmates?

24 A (By Mr. Chatman.) Are you speaking of a specific type  
25 of program or just additional subjects?

1 Q More, additional, being able to get into these  
2 programs, whether or not being able to get into these pro-  
3 grams would be of benefit to you in the prison facility  
4 and also when you get out?

5 A Would you repeat that again?

6 Q If there was access to the vocational programs, if  
7 they were available to a larger number of inmates, would  
8 this be beneficial to the prisoners?

9 A I think, I think it would, if also there were, you  
10 know -- there are not really any -- the vocational trades  
11 are not really incentive to prisoners here because like I  
12 say, upon completion of the trade it's not, you're not  
13 definite, you know, you're not sure if you're going to be  
14 released or not. There's no criteria for a person to be  
15 released, I mean if he completes a trade, there's no  
16 guarantee that he would be released, you know.

17 But there are a number of people who speak of applying  
18 for these trades, I don't know if they ever apply, but like  
19 I say, it here can accomodate, can't accomodate the number  
20 of people who apply for these trades, but I think it should  
21 be more, you know.

22 A (By Mr. Miranda.) I'd like to add a little bit too,  
23 in answer to your question, yes, I think the institution would  
24 benefit by expanding them or having more trades, but at the  
25 same time, I don't think that the inmates would benefit from



1 it because nobody, in my personal opinion, nobody recognizes  
2 this, the degree that you get, the GED degree that you get  
3 in reference to being paroled. I don't think the parole  
4 board places a value, the interest or concern on any of  
5 these things.

6 They use it as a, in my opinion, they use the vo-  
7 cational trades as a means of calling you for denying you,  
8 you come up there with a trade and they laugh at it because  
9 they say, so what. And you come up there without a trade  
10 and they deny you for not having it, so really, the inmate  
11 isn't benefiting from the trade itself, until he actually  
12 gets outside.

13 So, he could take four or five trades while he's in  
14 and really not benefit from it because he's not allowed to  
15 practice it because the parole board doesn't parole him  
16 after completion.

17 MR. WILLIAMS: Thank you.

18 THE CHAIRPERSON: Mr. Guerrero, do you have additional  
19 questions?

20 Q (By Rep. Guerrero.) Yes.

21 Mr. Miranda, do you know how many persons attend  
22 each one of these different trades or vocational, or trades,  
23 get away from the trade, the vocational education classes?

24 A Per exact number I'm not sure, but it's in the  
25 vicinity of what Chatman says, it's within 18 and 20. I've

1 seen it up to 25 and 30, sometimes.

2 Q Do you notice a disparity or maybe a difference,  
3 maybe some classes will have maybe two Blacks, one Chicano,  
4 maybe another class will have maybe three Blacks and four  
5 Chicanos? Is this pretty well, is it established, I mean  
6 the racial, you know, what I mean, the numbers of the ethnic  
7 minorities in each class or are they pretty much the same,  
8 to your knowledge?

9 A No, they're not. And it's not anyone's fault except  
10 the people that enroll them, because as I said, as a rule,  
11 in my opinion, again, Mexicans have a habit of being good  
12 with their hands so they get into something like body and  
13 fender, welding or auto mechanics, where the Anglo or  
14 Black have a good patience and so forth, so they get into  
15 drafting or something of that sense, that requires reading  
16 and book-type learning.

17 Q That's your opinion, right?

18 A That's my opinion, yes.

19 Q Do you know if there's been maybe people of ethnic  
20 minority who have applied maybe for drafting, for welding  
21 and have been refused or turned down?

22 A Yes, I definitely do, they have been refused and  
23 turned down.

24 Q That have met the requirements or qualifications?

25 A Yes, they have. I'm referring to now, before this

1 semester. I haven't kept up on this semester's statistics  
2 or anything like that, but before this semester, I would  
3 venture to say everything, they have been qualified and  
4 so forth and they have been turned down.

5 Q How long have you been here in the institution?

6 A Approximately two years.

7 THE CHAIRPERSON: Do you have any other questions,  
8 Mr. Guerrero?

9 Q Yes.

10 Mr. Miranda, or -- have you, Mr. Chatman, have either  
11 of you applied for, and qualified, I mean have you met the  
12 requirements for the qualifications for any one of these  
13 and been refused?

14 A (By Mr. Chatman.) Well, I -- I've spoken with my  
15 counselor about enrolling in drafting, you know, which I  
16 was told that I didn't meet the requirements. I had, you  
17 know, that is that I have an excessive amount of time, but  
18 then I've also seen people, you know, who also had an ex-  
19 cessive amount of time who are enrolled, presently enrolled  
20 in drafting, you know, so --

21 Q Did you ask him about that?

22 A No, I didn't pursue that, you know, I didn't pursue  
23 the issue because I was -- I think that he would have told  
24 me, well, he don't know anything about that, you know.

25 REP. GUERRERO: I have some questions I'd like to

1 direct later on.

2 THE CHAIRPERSON: Thank you.

3 Mr. Williams, do you have additional questions?

4 MR. WILLIAMS: No, that's all.

5 THE CHAIRPERSON: Do any of the other Committee  
6 members have questions of either Mr. Chatman or Mr. Miranda?

7 If not, we'd like to thank you very much for your  
8 testimony here this evening.

9 Thank you for appearing.

10 The Chair would now call Mr. John Wright, Mr. Duane  
11 Vild and Mr. Richard D. Trump.

12 Gentlemen, if you would kindly state your name,  
13 address and occupation for the record, please?

14 MR. WRIGHT: My name is John Wright, and I'm the  
15 Administrator of the Office of ~~Employment~~, Education and  
16 Staff Development for the Arizona Department of Corrections,  
17 at 1601 West Jefferson.

18 MR. VILD: My name's Duane Vild, I'm the Director of  
19 Education, Arizona State Prison, for Central Arizona College,  
20 located between Coolidge and Casa Grande, one of 14 community  
21 colleges in Arizona.

22 MR. TRUMP: My name is Richard Trump, I'm with the  
23 Rehabilitation Services Bureau, Department of Economic  
24 Security.

25 I'd like to apologize for Mr. Cummer (Phonetic) not

1 being here but he was in an unfortunate motorcycle accident  
2 this morning and is currently hospitalized.

3 The address, 1535 West Jefferson, Phoenix.

4 THE CHAIRPERSON: Thank you.

5 Mr. Williams.

6 Q (By Mr. Williams.) Mr. McLaughlin --

7 THE CHAIRPERSON: He's not here.

8 Q Mr. Wright, would you outline Mr. McLaughlin's over-  
9 all responsibility, I'm thinking more of the academic re-  
10 sponsibilities at the prison?

11  
12  
13 JOHN WRIGHT

14  
15 A (By Mr. Wright.) Mr. Williams, do you want me to  
16 outline my responsibilities or Mr. McLaughlin's?

17 Q Yours, and then what academic programs are offered  
18 by the prison?

19 A All right.

20 My responsibility is out of the central office as a,  
21 I guess it could best be characterized as a coordinator of  
22 educational programs for the department, which would in-  
23 clude both juvenile and adult.

24 And Mr. McLaughlin's responsibilities are those re-  
25 lated exclusively to the Arizona State Prison, and his title

1 is Correctional Programs Educational Administrator.

2 In that capacity, he serves as a coordinator of all  
3 the educational programs, both academic and vocational,  
4 and it is -- it determines the chain of command, Mr. Vild  
5 reports through him to the administration of the Arizona  
6 Department of Corrections.

7 Q Could you -- do you want to outline the academic  
8 programs that are available, are you knowledgeable on that?

9 A Yes, I'm knowledgeable, what I'd like to do is kind  
10 of outline the entire program, and I would ask you to refer  
11 to page 100 in your materials that were provided by the  
12 Arizona Department of Corrections, the combination of  
13 materials.

14 There are three basic programs offered by the Arizona  
15 Department of Corrections at Florence, chief among them  
16 would have to be considered the vocational program, and I'll  
17 allow Mr. Vild to address himself to that because he's the  
18 most familiar with that.

19 That's supported by a four-party agreement involving  
20 the department of economic security, the department of  
21 education, the Arizona Department of Corrections and Central  
22 Arizona College. It is coordinated under contract with  
23 Central Arizona College.

24 In addition to that there is an adult education pro-  
25 gram, basic education program for those people that test out

1 below the sixth grade level in their California treatment  
2 tests when they're in the diagnostic and classification  
3 center.

4 In addition to that, there is a GED preparation  
5 class, and finally, there is a college program available to  
6 those people that are available at night for classes.

7 Now, what I'd like to do before moving too far down  
8 the line, is relate to you, as it's related in the materials  
9 that are written responses to your inquiries, is that the  
10 Arizona Department of Corrections at this time, has a bill  
11 in the Arizona Legislature which is already past the  
12 senate on a 29 to 1 vote, so we feel like we have a very  
13 good chance, setting a school district --

14 Q. Is that Senate Bill 1033?

15 A. It was Senate Bill 1033, it's Senate Bill 1039 now,  
16 which was in the -- in the special session of the legislature  
17 and was not dealt with there. And now it's in the regular  
18 session of the legislature and it's been approved for the  
19 senate, so that it's in the house at this point.

20 And what I'd hasten to point out is that, and I'm  
21 going to take a little time, if you'll allow me, but I  
22 think it's important.

23 Over several years, the department of corrections has  
24 developed a number of educational programs. Within the  
25 department last year there was a million, four hundred

1 thirty-nine thousand dollars spent on education. And those  
2 dollars came from eight sources of funds, including the  
3 Elementary and Secondary Education Act, vocational reha-  
4 bilitation, vocational education, the department of correc-  
5 tions' own budget, from the library extension services and  
6 from the two community colleges that are involved with the  
7 Arizona Department of Corrections, that's Eastern Arizona  
8 and Central Arizona.

9 In addition to that, we spent some law enforcement  
10 assistance education fund in the department.

11 Now, the concept that we're working on is the develop-  
12 ment of a system of education. To date, the educational  
13 programs within the department have been largely fragmented  
14 and represented very little in the way of planning in that  
15 they had grown up out of an availability basis and they have  
16 grown up, as the inmates appropriately described, under cer-  
17 tain eligibility requirements.

18 The education bill that has passed the senate, would  
19 relieve us of that kind of concern. And would open up the  
20 possibility of both academic and vocational education to  
21 any inmate who is interested in it.

22 We're constrained by federal bureaucrats who have  
23 determined that an inmate within 18 months, or can not enter  
24 an education or vocational program until he's within 18  
25 months and as a consequence, is a potential taxpayer.



1           So that early on, the department of corrections  
2 realized that we need to get diversified and more compre-  
3 hensive vocational programs and we're dealing with that  
4 particular problem through the educational bill.

5           Our basic concept is the development of at least  
6 three proficiencies within the educational district. We're  
7 hoping, and this doesn't refer to every inmate within the  
8 population because as you've seen in your hearings, there  
9 are a number of people who have already achieved considerable  
10 academic development, in addition to that they have con-  
11 siderable verbal fluency.

12           So that we are aiming at the widest possible base  
13 within the client population. We want to achieve a functional  
14 literacy for every inmate who's capable of it in both  
15 reading and math. We're aiming at the development of social  
16 living courses, those that would fall into the category of  
17 life skills, to provide something that would hopefully aid  
18 some inmates in the interactional processes.

19           And finally, and what may be the most important, is  
20 a broad vocational program that will allow an inmate or a  
21 client, upon release, to engage in the pursuit of his own  
22 livelihood.

23           Now, the facts are that the inmates in the Arizona  
24 Department of Corrections enjoy IQ levels comparable to  
25 that of the public, so that we're not dealing with a client

1 population that is not prepared for education, but in  
2 addition to that, the facts are that only 30% of those  
3 people that are in this client population have either a high  
4 school diploma or a GED. So that while they're prepared to  
5 perform academically, they haven't had the opportunity or  
6 they haven't taken the opportunity. And this is the de-  
7 sign of the educational district. There are a lot of in-  
8 mates who, to date, I think have not had the opportunity  
9 to be informed adequately or properly about the available  
10 education programs and Mr. Vild, and the person who co-  
11 ordinates the academic program at the Arizona State Prison,  
12 are developing an educational orientation program that  
13 will alert them to the availability of all the educational  
14 programs within the department of corrections.

15 That would run all the way from the Arizona State  
16 Prison and Safford and Fort Grant Conservation Center.  
17 And our basic concept behind the educational program re-  
18 lates not only to the person while he's in confinement, but  
19 in addition, would prepare him if he has not completed his  
20 education or has not completed either his academic or vo-  
21 cational training to continue that training upon release  
22 from the institution.

23 So that our concept is a continuity of programs so  
24 that an individual who might be currently engaged in voca-  
25 tional training at the institution, will not have to remain

1 within the institution in order to get that vocational  
2 training but he would have an open-ended, an open exit  
3 program.

4           Hopefully, the parole board would recognize this,  
5 if he's gone four months in program within the department  
6 of corrections and the parole board otherwise feels that  
7 he's prepared for the free world, then he would be able to  
8 undertake a vocational program that would be a continuity  
9 of the program that he's involved in within the institution.

10           And we have undertaken, in the course of things, to  
11 develop with the parole board, on a preliminary basis,  
12 their recognition of these, not only the educational needs  
13 but the availability of educational programs and we want  
14 to convince them of the integrity and the worth of the edu-  
15 cational programs.

16           It was of concern to them that the people who were  
17 entering the educational programs were entering it as an  
18 effort to impress the parole board, and in my way of looking  
19 at it, as I said to the parole board, that's adequate as  
20 far as I'm concerned.

21           Because if, in the course of an attempt to impress  
22 the parole board, they get into an educational program,  
23 they're obviously going to benefit by it, so that's the  
24 direction which we're moving.

25           I feel obliged to give you some statistics about the

1 programs. And I don't want to contradict, but I'm going to  
2 have to contradict the previous clients' perception of what  
3 the training programs are.

4 There are only 74 educational or vocational training  
5 slots within the Arizona State Prison. In addition to that  
6 there are another 12 at the women's division.

7 Excuse me, in each one of these slots, these 74 slots,  
8 they're divided into a total of eight programs, but there  
9 can only be 12 allotted to each one of these slots.

10 Now, we've gone as high as 14 in drafting, but  
11 generally speaking there are only 12 within each one of  
12 these programs. And they're accurate in their estimate that  
13 you do have to qualify by having a minimum release date.

14 That's an imposition of the federal government on  
15 the programs. Statistically, I'm going to say that at the  
16 Arizona State Prison, there are 366 men involved in edu-  
17 cational programs, either the vocational education program,  
18 the college academic program, the GED or the adult basic  
19 education program, which constitutes 27% of the overall  
20 client population.

21 At Fort Grant, with the exception of 20 people, the  
22 entire population is involved in full time educational  
23 pursuits. And at Safford, 70 of the men, or roughly 40%  
24 are involved in educational pursuits, beyond their working  
25 day, so that for an overall population we're roughly in the

1 vicinity of 35% for the entire inmate population.

2 Now, what the education bill promises to do is at  
3 least offer the opportunity to a minimum of 60 to 65% of  
4 the overall inmate population. The legislation that will  
5 be passed will not accomodate anyone that has already  
6 achieved a high school diploma or a GED, in order for us to  
7 qualify for the funds that will result from that, a person  
8 has to have an educational level below that of high school.

9 That's briefly, what we're trying to do in education.  
10 I'd be happy to deal with the area of training after you've  
11 dealt with education.

12 THE CHAIRPERSON: Are there any questions of Mr.  
13 Wright?

14 Mr. Guerrero?

15 Q (By Rep. Guerrero.) I'm kind of confused here,  
16 Madame Chairman, because he stated that he was -- that  
17 there was not any program or slots, didn't have any more  
18 than 12 students in it?

19 A That's correct, sir.

20 Q Well, we had, I think you're referring to previous  
21 testimony that --

22 A Yes, sir. Someone said that there were as high as  
23 25 or 30 in some of the vocational classes.

24 Q I think they said 18 to 20.

25 THE CHAIRPERSON: At one point it was mentioned 25 to

1 30, also, Mr. Guerrero.

2 A. I mean the last two we had here, I wrote down what  
3 he said, 18 to 20 in one class.

4 Mr. Chatman said 18 to 20, Mr. Miranda said he saw  
5 between 25 and 30.

6 THE CHAIRPERSON: I thought he said 18 to 20, that's  
7 what I have here and you said there's none that have 18 to 20?

8 A. No, there are no programs, it's under a contract  
9 that the minimum of 12 persons would be in the program at  
10 one time. Excuse me, a maximum or minimum?

11 MR. TRUMP: It would be a maximum of 12.

12 A. (By Mr. Wright.) A maximum of 12 would be involved  
13 in the vocational.

14 Q. (By Rep. Guerrero.) I thought you meant each dif-  
15 ferent type of program?

16 A. No, no, sir.

17 Q. Because I notice here where there's 24 in one?

18 A. Those were two classes in welding.

19 Q. Two classes?

20 A. And one of those classes has been dropped. There's  
21 only one welding class.

22 Q. Does anybody else here have any statistics other  
23 than what you have as far as the breakdown on these classes?

24 A. I think Mr. Vild has some.

25 MR. TRUMP: I think we both have some.

1 THE CHAIRPERSON: Did you want some specific break-  
2 downs, Mr. Guerrero?

3 REP. GUERRERO: Yes, but I had another question.

4 Q (By Rep. Guerrero.) I was wondering, Mr. Wright,  
5 what is -- you're the head of the office of client educa-  
6 tion, what is client education?

7 A Well, client education is the educational endeavor  
8 of the entire department of corrections, that would in-  
9 clude all of the educational programs that I've described  
10 here, and that are listed on the materials that are pro-  
11 vided you.

12 In addition to that client education is the -- are  
13 the three juvenile institutions that we have, these are  
14 devoted to education and in addition to that we're developing  
15 a corrections day school within the community.

16 Other things related to this are educational pro-  
17 grams that might be developed for clients who have left  
18 the institution, these all are coordinated through our  
19 offices.

20 Q Could I ask, can you give us the background on  
21 your experience with corrections, how long have you been  
22 with the department of corrections?

23 A I've been on the payroll of the department of correc-  
24 tions since October 15th.

25 Q What year?

1           A.     Of 1973.

2                     I have been working --

3           Q.     Five months?

4           A.     -- I have been working for the Arizona Department  
5 of Corrections since last May. In --

6                     THE CHAIRPERSON: You might explain that, Mr. Wright.

7           A.     All right.

8                     I have recently come out of a two-year fellowship  
9 wherein I was an associate in a center for the teaching pro-  
10 fessions at Northwestern University, and during that pro-  
11 gram I was funded by the federal government to do anything  
12 I wanted in education for two years. And I chose last May  
13 to come to the Arizona Department of Corrections because I  
14 saw some exciting things that were going to happen here.

15                     Prior to that, for the years since 1960, when I  
16 engaged in my first remunerative endeavors, I've been in  
17 the field of corrections, first as a probation officer,  
18 Cook County in Chicago, subsequent to that with the New  
19 York City Youth Board as a street worker. Finally as an  
20 assistant director as a -- of a Puerto Rican settlement  
21 house and then back to Chicago for four years as a coordinator  
22 of a juvenile delinquency program.

23                     And then with the Chicago, Cook County Committee on  
24 Criminal Justice, planning their programs for the city and  
25 County of Cook.



1 Q In other words, you have just, your background mainly  
2 is in education?

3 A My background is mainly in corrections, and criminal  
4 justice, however, I hold a teaching certificate in the  
5 State of Illinois and the State of Iowa and I have a  
6 superintendent's endorsement as a school superintendent  
7 from the State of Illinois.

8 Q Have you worked at other correctional institutions?

9 A I have never worked inside a correctional institution.  
10 I have spent all my time in community or field services,  
11 but with probationists and parolees.

12 THE CHAIRPERSON: Mr. Williams, do you have additional  
13 questions?

14 MR. WILLIAMS: For Mr. Trump.

15 Q (By Mr. Williams.) Can you give me an idea of your  
16 responsibilities at the Arizona State Prison?

17

18

19

RICHARD D. TRUMP

20

21 A (By Mr. Trump.) My responsibilities are basically  
22 statewide, I am entitled, program, Project Specialist,  
23 function is to coordinate the correctional program statewide,  
24 adult and juvenile in which vocational rehabilitation is  
25 involved both in the institution and in society.

1 Q Can you give me an idea what that entails, do you  
2 actually take people who have been through the vocational  
3 rehabilitation programs and work with them?

4 A I don't deal directly with the client, I'm on an  
5 administrative level, working with the program development,  
6 new programs, on-going programs, contractual arrangements,  
7 four-party agreements and the development of programs  
8 to work with the disabled public offender in the institutions  
9 and on the streets.

10 We work with individuals that will be state or  
11 federal inmates once they reach the streets, we also work  
12 with juveniles.

13 Q Do you have any idea of how successful the vocational  
14 programs have been in the prison as far as the inmates who  
15 reach the --- people who reach the streets after they've  
16 been through the programs?

17 A At Arizona State Prison, based on the rate of recidi-  
18 vism of the individuals having gone through vocational  
19 training programs as compared to those who did not, the  
20 rate of recidivism as of September, 1973, is 14% and I  
21 believe that's compared to approximately 45%, approximately,  
22 for the general population, am I correct?

23 Q Mr. Vild, do you work directly with the vocational  
24 programs in the prison?  
25

1 DUANE VILD

2  
3 A. (By Mr. Vild.) Yes, I do.

4 Q. Can you outline for me the ways an inmate would get  
5 into a vocational program?

6 A. Since the new administration, right?

7 Q. Yes.

8 A. He would make an application, request for an appli-  
9 cation or an application, and that would go to the inmate  
10 personnel officer, and from there the inmate personnel  
11 officer would screen it as to security, time, detainer,  
12 that type of an item, and from there it would then be  
13 sent over to the department of economic security, voc. rehab.  
14 counselor and then from that person, who would determine  
15 eligibility as far as DES, department of economic security  
16 eligibility, looking at ~~GATI~~ GATI (Phonetic) scores, MMPT, Re-  
17 vised Beta scores and then a personal interview if he be-  
18 lieves it's necessary.

19 And then, from that point, then it would be sent back  
20 to classification if it's approved, or if it's disapproved,  
21 it would be sent back with notification that he did not  
22 meet the eligibility requirements in either one of those  
23 two steps.

24 And then the classification board, reclassification  
25 board, I should say, instead of classification, would make a

1 determination whether to classify that person, whether it  
2 be a she or a he, to the vocational program. And in those  
3 cases that's kind of a rubber stamping type of item, they're  
4 just putting together all the last minute items, to make  
5 sure nobody overlooked a detainer or some type of a sen-  
6 tence or something of that nature.

7 And then, from that period, then the person would be  
8 put on what we call a turnout list or a callout list and  
9 then he or she would report to the vocational program.

10 Q. Can you give me a racial breakdown of the people  
11 in the program?

12 A. I'll give you a racial breakdown of the people in  
13 the evening program, and Mr. Trump will give you a racial  
14 breakdown of people in the vocational program.

15 A. (By Mr. Trump.) Do you want vocational programs  
16 first?

17 Q. Yes.

18 A. All right, these figures are as of January, 1974.

19 At Arizona State Prison, do you want percentage or  
20 numbers?

21 Q. Percentage.

22 A. Percentage, Anglo, 61%; Black, 13%; Mexican American,  
23 21%; Indian, 4%; Oriental or other, 1%.

24 Q. (By Rep. Guerrero.) Is this a breakdown of the per-  
25 sons participating in the vocational program or of the

1 population?

2 A. Oh, that was of the persons participating in the  
3 vocational programs. I have that of the general population  
4 as of that date, also, if you'd like to compare it with  
5 that. Which I think is relative.

6 Q. (By Mr. Williams.) Would you please --

7 Q. (By Rep. Guerrero.) As soon as he gets through,  
8 I'll pursue it.

9 A. Again, on the same order, Anglo, 52%; Black, 20%;  
10 Mexican American, 24%; Indian, 3.5%; other, .5%.

11 THE CHAIRPERSON: Mr. Guerrero, do you have additional  
12 questions?

13 Q. (By Rep. Guerrero.) Yes, I'd like the numbers myself,  
14 of, say how many of each participated in body fender, auto  
15 mechanics?

16 A. I don't have that breakdown, Representative Guerrero,  
17 I'm sorry, I wasn't prepared for that, I've the total break-  
18 down in numbers, I don't have it broken down into each class.

19 Q. Would you give it to me again, then?

20 A. Certainly. The numbers at Arizona State Prison,  
21 Anglo, 48; Black, 9.

22 Q. What percentage?

23 THE CHAIRPERSON: These are the numbers, Mr. Guerrero?

24 Q. (By Rep. Guerrero.) Numbers of the persons partici-  
25 pating in the programs? Well, I want to go back to the 60%

1 figure you gave me to begin with.

2 A. Sixty-one percent, I was referring to the Anglos  
3 currently enrolled in the vocational training programs.

4 Q. Can you read those again?

5 A. Okay, Anglo, 61%; Black, 13%; Mexican American, 21%;  
6 Indian, 4%; Oriental or other, 1%.

7 Q. And now give me the other figures you had, on the  
8 48% figure? Can you tell me what that relates to?

9 A. Those were hard numbers.

10 THE CHAIRPERSON: Mr. Trump, I believe you also had  
11 figures, percentages, however that reflected the total  
12 inmate population.

13 A. Yes, is that what you wish?

14 Q. (By Rep. Guerrero.) Yes.

15 A. Okay, those percentages were, Anglo, 52%; Black, 20%;  
16 Mexican American, 24%; Indian, 3.5%; and Other, would be  
17 .5%.

18 Q. Mr. Trump, can you explain to me the disparity in  
19 the percentages of the prison population compared to ethnic  
20 breakdown as to why the percentages are this, why the  
21 disparity is there?

22 And I asked this question last night, I'm sure Mr.  
23 Moran might have told you I might ask you this?

24 A. No, but I think I can give an answer, I hope it will  
25 be adequate.

1           These figures represent the current classes, we have  
2 had vocational training programs down here since 1968,  
3 and over a five-year period, the ethnic population very  
4 closely approximates the actual ethnic population of the  
5 prison, except in one area.

6           Q     Which area?

7           A     That's the Anglo. Usually, the Anglo population  
8 generally runs, and I'm subject to correction on there,  
9 usually runs about 56%, I think over a five-year period.  
10 Now, that's something, I think it's pretty close.

11           THE CHAIRPERSON: Mr. Guerrero, did you have additional  
12 questions?

13           Q     (By Rep. Guerrero.) Yes, I do.

14           The figures I have here before me, Arizona State  
15 Prison, White, 50.2%. We're speaking about men in these  
16 vocational education programs, right?

17           A     No, I was including the women, too.

18           THE CHAIRPERSON: Mr. Guerrero, do you have a date on  
19 those figures that you are reciting?

20           REP. GUERRERO: Yes, I do.

21           THE CHAIRPERSON: When is it?

22           REP. GUERRERO: July 1, 1973.

23           THE CHAIRPERSON: Mr. Trump, you were using June, 1973  
24 figures, weren't you?

25           A     Yes, and it does fluctuate.

1 Q (By Rep. Guerrero.) What was the total population  
2 of the institution when you took those figures?

3 A I would have to guess, I'd say the total population  
4 was about 1,400.

5 Q Around 1,400?

6 A About that.

7 Q In January?

8 A Yes. Now, that's a guess on my part, I don't have  
9 that figure.

10 Q If you don't have any accurate figures, I don't want  
11 to guess, because I had information that it was closer to  
12 13-something here.

13 A Well, I don't have the accurate figures of the popu-  
14 lation of the prison, I have accurate figures as to the  
15 vocation students.

16 Q How do you base your percentage, what do you base  
17 your percentages on, if you don't have accurate figures on,  
18 in the total population?

19 A When it was computed, they did have the figure, I  
20 don't have the figure with me, sir.

21 A (By Mr. Wright.) Madame Chairman, I think that we  
22 could safely say that the inmate population would run between  
23 1,350 and 1,400, around January 1st. So that it wouldn't  
24 radically differ from the figure that you have.

25 Q Very well, if you just give me a horseback guess to



1 how many White, who's more familiar, I guess you are in  
2 the center, aren't you?

3 A. (By Mr. Vild.) Yes, I'll try to answer your question.

4 Q. How many Blacks, how many Mexican Americans, how  
5 many Whites?

6 A. You want to start by program I'll tell you exactly.

7 Q. In the body fender?

8 A. If you want body and fender, at the moment we have  
9 11 people in body and fender, of the 11 people in body and  
10 fender, there is one Black and I'm only using Spanish  
11 surname, I do not know if they're Mexican American, Chicano  
12 or any of that thing, I'll use Spanish surname, there's  
13 four people in there with Spanish surname. No, "others",  
14 or Oriental and the rest being Caucasian, Whites.

15 Q. That would be six.

16 How about auto mechanics?

17 A. Auto mechanics presently there are seven in there  
18 in the program, there is three Mexican Americans or Spanish  
19 surname, and four Caucasian, White.

20 Q. How about Blacks?

21 A. None.

22 Q. How about drafting?

23 A. In drafting at the moment there is 12 students, one --  
24 two Blacks.

25 Q. Two Blacks?

1 A Yes, two Blacks, I was counting, and one Jewish  
2 person but I can't put him in anyplace, let's see.

3 Q You have to put him White, don't you?

4 A Put him White.

5 Q You do everywhere else.

6 A I think I did, I didn't ask anybody else there.

7 There is three Spanish surname in there, and the rest  
8 being White, Caucasian.

9 Q And you have a total of 12, you have two Blacks,  
10 three Spanish surname and seven Anglo, right?

11 A Right.

12 That program is normally more Anglo than the other  
13 programs. If I can just interrupt you for a moment, it's  
14 that you'll usually find your auto body program being  
15 very strongly Spanish surnamed, Chicano, Mexican, and  
16 you'll find very balanced program, I think, in all the  
17 others.

18 Q How about welding, can you give me another guess on  
19 welding?

20 A Yes.

21 Welding there's I think three Blacks, one Indian,  
22 Native American, and there is three Chicanos, two Chicanos,  
23 I'm sorry, and the rest Caucasian.

24 Q That would be seven Caucasians?

25 A That's right.

1 Q How about upholstery?

2 A Upholstery, one Black, one that I'm not sure of as  
3 being maybe a Native American Indian, if he's not Native  
4 American Indian he's Spanish surname. Five Spanish sur-  
5 names, and the rest being Caucasian, White.

6 Q That would be how many Caucasian, White?

7 A I don't know.

8 Q Three, four? How many is in the class, total,  
9 there, in upholstery?

10 A There's 12 presently in there.

11 Q One Black, five Spanish surname?

12 A Right, and one Indian.

13 Q One Indian?

14 A One Native American.

15 Q That would leave --

16 A That will leave five Caucasians.

17 Q Five Caucasian.

18 How about auto body?

19 A We just, we went through that.

20 Q That was body, fender, wasn't it?

21 Oh, wait a minute. Wait a minute, that's right,  
22 I'm sorry.

23 A You want auto mechanics.

24 I think we need to point out the fact that we have  
25 forgotten one entire vocational program, plus we are dis-

1       criminating against the women.

2               We have a program called graphic communications which  
3 is on the inside wall, it has 12 students in it. I take  
4 that back, we have 11 students in it and we have another  
5 program for the women, called clerk-typist, sometimes re-  
6 ferred to as business, which has 13 students enrolled in  
7 it presently. All women. If you want an ethnic breakdown  
8 of the graphic communications we'll give you that.

9       Q       (By Mr. Williams.) Mr. Vild, could you tell me  
10 whether or not there are any certificates granted on com-  
11 pletion of these educational programs?

12       A       I didn't hear you.

13  
14  
15       A       To differentiate between two different types of  
16 certificate, the junior college gives one type of certificate  
17 for all vocational programs, and then the professional  
18 certificates such as welding students would receive the  
19 AWS welding certificates, and they are categorized by  
20 numbers, and that refers to specific positions in welding  
21 rods and things of that nature, and we receive or we award  
22 certificates for the automotive students and that's an  
23 IGO certificate, Independent Garage Owners Organization.

24       Q       Do all colleges offer credit courses, courses for  
25 credit?

1 A Do all colleges?

2 Q Pinal General, or Pinal College?

3 A We refer to it as Central Arizona College.

4 Q All college courses are offered, are they all for  
5 credit?

6 A Yes, they're all for the vocational program?

7 Q Yes.

8 A You have to distinguish between different educational  
9 programs. To keep you straight, it's that we have voca-  
10 tional programs during the daytime and it would be easier  
11 to refer to those as daytime programs.

12 And then there's evening time programs, and those  
13 incorporate liberal arts, remedial-type education, and  
14 also, then, there's leisure-type education courses in that  
15 and also, additionally, there's vocational classes in those  
16 evening programs and then there's a third educational  
17 program, which Mr. Wright referred to as the adult basic  
18 education GED program.

19 In the evening program, for example, there is a  
20 program which could be referred to as remedial, depending on  
21 your position, and that is ESL, English as a second language,  
22 and that's held on Monday and Friday nights. Dismissed two  
23 hours ago.

24 And that is composed entirely of Spanish surnamed  
25 people. I can give you figures if you're willing to wait here

1 just a second, of how many are enrolled each night. The  
2 Monday and Friday night, some of them being Mexican Nationals,  
3 some of them being American citizens, all of them having  
4 difficulty with the English language and the purpose being  
5 that they're to learn how to speak the English language.

6 Q I was also thinking of courses that lead to an  
7 associated arts degree?

8 A Right. In the evening program the primary emphasis,  
9 the number one objective, as far as I'm concerned, which is  
10 just my own opinion, other people have different opinions,  
11 the primary purpose of the evening program is to award  
12 associate of arts or associate of science degree. ~~no to~~  
13 ~~vocatic~~ And the vocational program, the primary purpose --  
14 which is the daytime program -- is to prepare the person  
15 for a job entry -- job entry skill or job entry position.

16 Q Do you have many people actually get associate of  
17 arts degree?

18 A We have had four people in the past get associate of  
19 arts degrees, one gentlemen has left, in 1972, went to the  
20 University of Hawaii and has just recently received his  
21 bachelor's degree and is now working on his master's degree  
22 in social work and social welfare.

23 I'm not sure the other gentleman graduated with him  
24 at the same time, is Billy McKinley, and he is still in  
25 the prison, but Billy McKinley has a life sentence, and is

1 still continuing taking classes.

2 Two other people last year, and I referred to 1973,  
3 June of '73, graduated with normal exercises in the IER  
4 cafeteria, Robert Green being one and I believe, I'm not  
5 positive of this, I could be corrected, is, I think he is  
6 released from prison, and another person by the name of  
7 Kermit Burton, who is in the meantime been paroled and is  
8 residing in Tucson.

9 And those four people have earned associate of arts  
10 degrees, and I believe, if my figures are correct and if  
11 the people do apply for their associate of arts degree  
12 graduation this June or May, there will be 12 more people  
13 ready to graduate, become associate of arts degree recipients.

14 And the reason is that they, the period of time the  
15 evening time program has been going since 1970, where the  
16 academic, the vocational program has been on-going since  
17 1968.

18 And with the evening program, it takes a little bit  
19 more time, and since it's only been going about four years  
20 it's now to where we're coming with our first graduates. I  
21 should say our first bulk of number of graduates.

22 Q Are any of the men paid to go to the vocational  
23 school or academic schools?

24 A No, nobody is paid a salary or a wage. In 1969 --  
25 in 1969 or '70 for a period of two years, I'm looking at Mr.

1 Trump for clarification on this, there were two vocational  
2 programs conducted at Arizona State Prison, a meat cutting  
3 program and a cooks and bakers and they were funded through  
4 MDTA and they were a two-year program and they were no  
5 longer, done away with, and I refer to those because they  
6 did receive a salary in that.

7 But none of the on-going programs receive a salary  
8 but they are given what's referred to as a kickout amount of  
9 money when they do leave the institution by department of  
10 economic security and for the last five years it's been  
11 \$200.00 and because of budgetary cuts, I believe it's now  
12 \$100.00.

13 Q Mr. Chatman mentioned a data processing school that's  
14 not detailed here, would you explain that?

15 A Yes, data processing is under the department of  
16 corrections, industries division, and is not considered a  
17 vocational, four-party agreement, when you usually refer to  
18 people, group of vocational programs and they're usually  
19 referring to what should be accurately described as the four-  
20 party vocational programs.

21 The misnomer is that in the evening time we have  
22 programs such as accounting and blueprint reading and those,  
23 those are also considered vocational by educators, myself  
24 being one, and so it's incorrect to say that vocational  
25 programs are only during the daytime and vocational programs



1 ~~are~~ only such that you learn to be an auto mechanic or  
2 body and fender. Learning to be a lawyer or doctor is also  
3 vocational, but to get back to your question on ADAP, which  
4 is referred to as the computer programming, and that is  
5 what you learn to be, is computer programmer.

6 And that is conducted by the department of corrections,  
7 industries division, and formerly it has been trained by  
8 inmates and is now in the last, guess on my part, five, six,  
9 months it now has a free world supervisor who is doing the  
10 training. And they bring in people from Honeywell, General  
11 Electric and other reputable companies to do studies, work  
12 shops and things of that nature, for the people in it.

13 Many of the people in it have long sentences, life  
14 sentences, and things of that nature, it is a vocational  
15 program. They do receive very adequate training, as a  
16 matter of fact, not only adequate, but excellent.

17 Q How many people are in this particular program?

18 A In the IBM, referred to as IBM or ADAP, in ADAP now  
19 there's the -- there's 12 men, there are 12 men in training  
20 at this moment. They started about a month ago, a guess on  
21 my part.

22 There are 17 people that are presently computer  
23 programmers; experienced programmers, they do receive money,  
24 salaries, ranging 12 cents, 13 cents, something like that,  
25 that's a guess on my part. Up to about, I would guess 28 cents

1 an hour, and they do work to receive this money.

2 Q Do they program for the state?

3 A They program for the department of corrections,  
4 industries division contracts with the state, so in essence,  
5 yes, they program.

6 There used to be key punching part of that, but no  
7 longer they do that.

8 The women now, which I think everybody's neglecting  
9 the women, the women have taken over the responsibility of  
10 key punching for the department of corrections, industries  
11 division, and they now have two women who are doing the key  
12 punching. They've gone through and received training  
13 through our vocational program on the women's side at one  
14 time or another, and are now doing the key punching at  
15 about 10,000 to 12,000 strokes an hour, and are receiving a  
16 salary for this, again under the department of corrections,  
17 division of industries.

18 Q Could you detail for us the programs that are avail-  
19 able in the women's facility, so we won't ignore the women?

20 A Okay.

21 Before I forget it, all programs such as the ADAP  
22 programs, do receive college credit. For example, if an  
23 inmate was to come into the ADAP section now, which there  
24 are, you know, certain number of people in there, they  
25 would receive four classes of approximately 17 hours of

1 college credit for that training which lasts six months,  
2 740, 750 hours, clock hours.

3 But to get back to your question, on the women's side,  
4 on the women's side the prison population, I refer to as  
5 the number of 50, 51, 52, we have 12 students supposedly in  
6 clerk-typists, business program, which is the only voca-  
7 tional program there, but a more accurate figures is  
8 usually 13 or 14 because it can adequately hold 13 or 14,  
9 even though the contract calls for 12. And then with this  
10 new addition there is two people in there that are working  
11 for the division of industries, key punching. The women  
12 are in a year-long program and they have the ability to be  
13 clerk-typists, secretaries, medical transcribers, they learn  
14 stenography, shorthand, key punch, filing, business math,  
15 business accounting, and things of that nature.

16 I'd like to say that we have a very good placement  
17 rate in there and I didn't give you an ethnic breakdown in  
18 there. I can tell you that there is one Black, one Native  
19 American, and I'm not sure on the Spanish surname, it would  
20 either be three or four with the remaining part being Anglo  
21 or White.

22 We do have plans for the women, because of the necessity  
23 for training them. You take the small population, it's a  
24 very difficult problem and providing vocational training or  
25 any type of educational training, we have evening programs

1 over there, also, and I don't mean to slight any woman in  
2 here, but women are different than men, at least in my  
3 opinion from an educator's viewpoint they require a dif-  
4 ferent type of program or a different approach, maybe not  
5 different training. Sorry about that, girls.

6 But in this case, one solution to the problem for  
7 vocational training for the women would be not to bring  
8 another vocational program into Arizona State Prison,  
9 Women's Division, but instead to take those inmates that  
10 need requirements, whether it be security, interest, ability  
11 or whatever it may be, and transport those individuals to  
12 one of our other campuses. We have a campus at Sacaton,  
13 Arizona, which is on the Gila River Indian Community and  
14 where we have a career center and we would like to take  
15 the women from the women's division and which this has all  
16 been, I think tentatively worked out, I think it needs  
17 formal agreement by all parties concerned, and that would  
18 be taking anywhere from two, three, four, five, six, seven,  
19 eight women during the daytime, if we can get all parties  
20 to agree to it and the legalities worked out, and take them  
21 over there for different types of training.

22 The women are complaining that the only available vo-  
23 cation for them is business clerk, secretarial-type program  
24 and many of them don't want to be secretaries because  
25 that's kind of a, you know, a what am I trying to say, a

1 stigma, that all women should be housewives, nurses and  
2 secretaries.

3 But, and I don't agree with that. But anyway, at  
4 Sacaton Career Center there are programs for nursing where  
5 they could receive an LPN or RN program, they can do child  
6 care, they can do culinary art, such as cooking, baking,  
7 they could conceivably, if they want to, there would be  
8 nobody holding them back except their own conscience,  
9 there would be welding, automotive body fender, some type of  
10 decorating.

11 Q (By Dr. Glass.) I'd like to ask Mr. Vild a couple  
12 questions.

13 What percent of success do you have in these, both  
14 academic and vocational programs here at the prison?

15 How many dropouts do you have, in other words, how  
16 many of them quit the classes, how many of them don't  
17 certify?

18 A. Not having those figures with me, if I can give you  
19 what I believe to be my honest opinion and not giving you  
20 a true fact at this moment, is that we have an extremely  
21 low dropout rate. We have, I should say maybe 2% or 3% or  
22 dropout at the most.

23 Then with maybe another 2% or 3% of students that  
24 we would drop from the program for different reasons and  
25 maybe another 5% on top of that percent of people that have

1 been, for institutional reasons, withdrawn from the program,  
2 locked up for considerable time, or, you know, I'm just not  
3 -- that's not a good, accurate, of the reason for insti-  
4 tutional withdrawal.

5 Q Why do you take them out of the program? For what  
6 reason, I'd just like to hear them, I'm curious to know.

7 A Well, one could be ability, two would be desire,  
8 three would be interest, the normal reason for withdrawing  
9 any type of student from a vocational program, and we do it  
10 with conferring with the student.

11 Q Is there much demand for the mechanics program and  
12 the body shop program?

13 A For the auto mechanics and the body and fender, yes,  
14 there is an extremely high demand and there is an extremely  
15 high placement for the auto body program.

16 I would say that our placement has probably been  
17 anywhere from the field of 80% to 90% without having the  
18 figures with me.

19 In the auto mechanics there's also a high demand for  
20 it, also.

21 Q Is there much of a security problem over there?  
22 What are the requirements to get into this?

23 A Well, first of all, to --

24 Q Body program, and --

25 A And the automotive program, automotive mechanics program,

1 it's on the outside of the walls and it used to be, before  
2 the administration came that's presently there now, it  
3 used to be that those people lived in the OT area, the  
4 outside trustee area, and now those students are now what  
5 we refer to as gate trustees, so they have to be able to at  
6 least meet the minimum that the administration puts on gate  
7 trustees and that's one of the reasons that we do not have  
8 the full 12 students in the automotive program. We only  
9 have seven because of the difficulty of meeting the re-  
10 quirements for gate trustee.

11 Q In your opinion, can that area be secured well enough  
12 to put other men and fill other needs in the prison to --

13 A I don't understand your question.

14 Q Well, the security seems to be one of the problems  
15 over there. I'm just wondering if that area can be secured  
16 enough, this seems to be the big problem over there.

17 THE CHAIRPERSON: Excuse me, Dr. Glass, may I inter-  
18 rupt just a minute?

19 When you speak of over there and that area, are you  
20 referring to IER section?

21 DR. GLASS: No, I'm referring to the auto body shop  
22 and mechanics shop.

23 A I can't give you an honest answer to that, I'd have  
24 to defer that to somebody from security, Mr. Kette or  
25 Warden Cardwell.

1 Q (By Dr. Glass.) Do you think that program should be  
2 continued at the prison?

3 A The automotive and body and ~~federal~~ program?

4 Q Yes.

5 A That's a complicated question, and it's complex --

6 Q I knew it was a little rough when I threw it at you.

7 A You're asking --

8 Q You said there's a big demand --

9 A There's a demand for it and if I can give you a  
10 qualified answer, yes, I do believe both of them should  
11 continue, but there are maybe programs that are better and  
12 maybe because of economics, maybe those programs should not  
13 be continued.

14 But without having any budgetary problems and economic  
15 problems and having ideal situations, including institutional  
16 ideal situations and all other situations down the road,  
17 yes, they should be continued.

18 But as in any complex question, when all parties sit  
19 down and all parties have their problems and in this case,  
20 we're sitting down with four different governmental agencies  
21 and two of those governmental agencies would like to stand  
22 back and let the department of corrections begin their  
23 role in education, and so with this move, we are going through  
24 a feeling stage now of trying to determine what programs are  
25 the most relevant for the inmates.



1           Even though we're governmental agencies and we sit  
2 down with moneys on our mind, I think it's always foremost  
3 in all of our minds that the inmate is first and we, I  
4 think it's uppermost in our mind that the inmate's training,  
5 I should say, is thought of to be relevant. There is no  
6 sense making an inmate a cook or baker because there is not  
7 maybe a high demand for those, not being true for baking  
8 there is a high demand for it, and that is the reason  
9 that we're thinking about programs such as refrigeration that  
10 is one of the programs that's under consideration.

11           Dental lab technician, for the males, that's why  
12 we're considering transporting the women to the career  
13 center, such trades as building or such vocational programs  
14 such as building maintenance, building trades. TV repair  
15 and things of that nature.

16           Many programs have been discussed and I could give  
17 you an example of one and that was called office machine  
18 repair where you could bring typewriters in and things of  
19 that nature and do it, for the institution that would be a  
20 good idea, for the junior college that would be a good idea,  
21 for the other governmental agencies it would be a good idea,  
22 money-wise, because it would be cheap to get into. You  
23 can crowd a lot of students in it but for the inmate, it  
24 would be bad because, one, you couldn't get a job and  
25 there's no reason us being in business if we're not going to

1 realize our objective.

2 Q. One more question.

3 Why is it the lifers, now I've heard this coming down  
4 here for some time, to the prison, that the lifer can't get  
5 in anything, practically, at this prison, I've heard this  
6 so much I get tired of hearing it. Why can't they be  
7 trained or used as tutors or put to some use or their  
8 time made available for some program.

9 Can you answer that?

10 A. (By Mr. Wright.) Could I address myself to that  
11 for just a moment, Doctor?

12 Q. You surely can.

13 A. You heard testimony this morning by a lifer to the  
14 effect that there are no programs for lifers. And then,  
15 subsequent to that, you heard him state that he got his  
16 GED. And subsequent to that he engaged in the college  
17 program.

18 Q. That's right.

19 A. Through which he could get an AA degree, and if he  
20 cared to, through extension, he could get a BA degree and I  
21 suspect he could go on and get an MA and a PhD, if he  
22 wanted to. So that I'm perhaps paranoid about the accusation  
23 that there are not programs for lifers or for long term.

24 The statement that there are not programs for lifers  
25 in the vocational area is totally accurate and we are dealing

1 with that through the school bill.

2 Perhaps Mr. Trump, who's in the vocational rehabili-  
3 tation that puts that constraint to us, would like to deal  
4 with it.

5 A. (By Mr. Trump.) I'd be happy to.

6 Mr. Wright referred to the federal bureaucracy  
7 some time back; I represent that bureaucracy.

8 The law under which we operate is Vocational Rehabili-  
9 tation Act, the latest one, 1973. In that act, we are re-  
10 quired to work only with disabled public offenders. These  
11 public offenders must have either a physical or mental or  
12 emotional disability.

13 Secondary to that, that particular disability,  
14 whatever it may be, must be a handicap to him or he can not  
15 get a job or hold onto a job because of the disability  
16 factor.

17 And the third criteria, this is what I'm addressing  
18 myself to, is that there must be a reasonable expectation  
19 of gainful employment.

20 Now, those are the federal laws under which we are  
21 governed and these are the regulatory constraints which we  
22 have imposed on the department of corrections and we make  
23 it difficult for them to be freewheeling and I'll have to  
24 say that the philosophy under the new administration, the  
25 department of corrections and the rehabilitation are absolutely

1 parallel at this time and down the road things are looking  
2 really fine.

3 The reason why we don't have any lifers, well, I  
4 can't say we've never had lifers, there are qualifications  
5 of everything, the reason we do not take lifers as a rule  
6 is there's no reasonable expectation of gainful employment.

7 In other words, their release is not imminent.

8 A couple of other restraints that we impose upon the  
9 institution is that they should have, for the same reason,  
10 a release date or a potential release date no more than  
11 six months after completion of vocational training. I  
12 think the reason is obvious, that they sit around they lose  
13 their skills.

14 Another reason would be if they had a detainer on  
15 them, if they were going to be shipped to another prison  
16 they would not get a chance to do them. These all eliminate  
17 for our persons, individuals from the school.

18 We did have, and might as well bring up now or  
19 somebody else will, we did have one lifer in a upholstery  
20 class and the reason for that was the parole board approached  
21 us feeling rather high on this man, but felt he had no  
22 vocational skills, they said if he qualifies for your program  
23 and you put him in vocational training, we will recommend a  
24 commutation to the governor.

25 We put him in vocational training, he completed,

1 a commutation was recommended and for a while it was denied.  
2 I understand now that he has applied several times since  
3 then and the governor has signed a commutation and I believe  
4 he's out. He's out on the streets now.

5 Does that answer your question?

6 DR. GLASS: Thank you, Gentlemen, I think that's all  
7 I have.

8 THE CHAIRPERSON: Mr. Trump, I would like to make  
9 one thing clear for the record, when we're speaking of  
10 lifers not getting training, I think that we should clarify  
11 that we are speaking in the area of vocational training  
12 only.

13 A. Please do.

14 THE CHAIRPERSON: And the 74 slots that are available  
15 under the four-party agreements, right. Per Mr. Vild

16 And Mr. Vild, would you also reply to the academic  
17 training that's available and the ADAP program which I be-  
18 lieve is also available as far as the lifers are concerned?

19 A. (By Mr. Vild.) Yes, I'd like to show the evening  
20 program. I have statistics on the evening program, for  
21 last semester, this is per semester. Fall semester, '73-'74,  
22 the evening college liberal arts programs at Arizona State  
23 Prison, main yard, IER-OT, this is male only, does not reflect  
24 women's division there, is 371 inmates submitted applica-  
25 tions, 366 were accepted, 311 of those inmates enrolled for

1 classes. Out of those 311 people, 170 completed. Of those  
2 170, 42 took four classes, 18 took three classes, 134 took  
3 two classes and 117 took one class. With a breakdown of  
4 how many completed of those taking four classes, completed  
5 four, three, two and one, which I won't bother you with.  
6 607 classroom positions were enrolled for.

7 The evening students mean IQ is 102.38, and the  
8 evening students mean age is 43 people are 18 to 21, 94  
9 people are in the 22 to 25 years of age, 115, which is the  
10 majority, in the 26 to 35 years of age, 47 of them in the  
11 36 to 45 years of age, and 12 of them in 46 years to 70  
12 years of age, and above.

13 The racial grouping for the individual students was,  
14 there was 55 Blacks last semester in the evening program,  
15 53 Chicano, Spanish surname, seven Indian, Native American,  
16 196 Caucasian and no "others".

17 The Indian student mean sentence age is 18 to 31  
18 years sentence at Arizona State Prison and I'd also like to,  
19 my opinion is that the ADAP program, I don't have statistics  
20 on that, is extremely highly represented by lifers.

21 THE CHAIRPERSON: Thank you, Mr. Vild.

22 Are there any other questions of these three gentlemen?

23 Mr. Guerrero?

24 Q (By Rep. Guerrero.) Mr. Trump, of those who complete  
25 the vocational education programs here in the institu-

1 tion, how many of these are placed in the same type of work  
2 once they leave the institution? Do you have a breakdown  
3 on that?

4 A. (By Mr. Trump.) Yes, I do, the percentage that are  
5 placed in the areas for which they were specifically  
6 trained or related areas, would be 67%.

7 Q. I'm sure you follow these up, don't you, and see how  
8 they remain with it?

9 A. Yes, we do.

10 Q. Of this 67%, how many, after a year's period or two,  
11 are still doing the same type work?

12 A. We usually, in our followup, very seldom go beyond  
13 six months on the followup. We have not had the statistical  
14 retrieval system in order to accomplish it. This is being  
15 developed now and is going into effect, but it would be  
16 close to 50% stay on the same job. Same related job.  
17 Excuse me, they change jobs often, a man will take a job as  
18 a spot welder at approximately \$1.80 an hour upon release,  
19 if that's the best he can do, but he'll keep trying, keep  
20 changing jobs until he gets up to jobs paying with the same  
21 skills, around \$5.00 an hour, which happens often, sometimes  
22 it will take three to six months.

23 Also, depending on the time of year that he is re-  
24 leased, the classes released in December have a very tough  
25 time getting jobs until the end of January or the middle of

1 February, there seems to be a layoff in that field at that  
2 time, but then, after that, they stay.

3 Q This is a sore spot with me, I wonder, Mr. Vild,  
4 do you select the applicants for these vocational education  
5 programs?

6 A (By Mr. Vild.) Do I? Pardon?

7 Q Do you select the applicants?

8 A No, I don't select the applicants, you go back to the  
9 application procedure again it's that an individual, an  
10 inmate would first learn about vocational programs --

11 Q Who does the actual selecting of who's going to be  
12 accepted into the program? Who does that?

13 A I'll go through that again.

14 That's done by different departments and different  
15 committees. The number one procedure is it's done by an  
16 inmate personnel, he's the first person to review it, then  
17 the second one is the person that's referred to as a voc.  
18 rehab., that's Mr. Trump's department, a Voc. rehab.  
19 counselor.

20 Then it will go back to the prison where the final  
21 determination will be made as far as who goes into the pro-  
22 gram and then, if the program is full they'll be put on an  
23 alternate list and then their name will be taken from that.

24 Q Who in the prison does this go to?

25 A Who in -- what?



1 Q You say it comes right back to the prison?

2 A It's run through what's called an inmate personnel  
3 officer, who is working in the main yard office.

4 Q Who is he?

5 A Up till about three weeks ago it was Captain Goldsmith  
6 and it is now Lieutenant Sorren, and for practical purposes  
7 it would probably be an officer by the name of Art Martinez.

8 Q Mr. Vild, you mentioned the MDTA program, back in 1968,  
9 which related to meat cutters and bakers, is that correct?

10 A Yes, sir. I think it was more accurately, '71 or  
11 '70.

12 Q Were there any recommendations that came along with  
13 this MDTA money as to how maybe persons should be placed in  
14 the program? Did they have any language in there as to  
15 ethnic breakdown of participants?

16 A No, I don't recall, because I've only been employed  
17 two years in this position and just as I was being employed  
18 that program was being dissolved.

19 So I can't answer you honestly. But from my opinion,  
20 there was no constraints put upon the applicants, the prison  
21 was the agency that would determine who should be put into  
22 the meat cutting programs and the culinary programs. But  
23 with the agencies we have now, the agencies, they're federal  
24 agencies such as the department of economic security, the  
25 constraints come from their federal moneys that they receive.

1 THE CHAIRPERSON: Mr. Vild and Mr. Guerrero, the Chair  
2 would remind you that we are speaking of the time since  
3 this administration took over, rather than previous admin-  
4 istrations.

5 REP. GUERRERO: I was just wondering, Madame Chairman,  
6 if there were any recommendations made because I do know  
7 that prior to this administration, the present administration,  
8 that the ethnic breakdown was more comparable to the break-  
9 down, percentagewise, of the prison population, than it is  
10 now. I see now that there is a disparity under the present  
11 administration, as far as participants in the program is  
12 concerned.

13 I notice just using his figures, that out of a popu-  
14 lation that he just quoted to me, 52% are White, yet they've  
15 61% of the slots. 20% are Black, they've 13% of the slots.  
16 24% are Mexican American, they've 21% of the slots.

17 I have no quarrel with the 3.5% of Native Americans,  
18 because they got 4% of the slots. This is the only thing  
19 that I'm wondering about, the disparity where there wasn't  
20 a disparity before.

21 THE CHAIRPERSON: Mr. Wright, did you care to reply  
22 to that?

23 A. (By Mr. Wright.) I just wanted to address myself to  
24 one feature of the program and that is that when we get  
25 the school district, we will be paid according to the number

1 of people that are enrolled in the school, the school dis-  
2 trict will be supported on a DM basis, as a consequence,  
3 there will be an opportunity to develop as many slots as  
4 possible and it will not be restricted in any way with  
5 respect to the number of slots or having to do with the  
6 selection criteria based on minimum release date.

7 It's very possible that within those statistics you  
8 might be dealing with minimum release dates, which generate  
9 those kinds of statistics. I can't say that that's the  
10 only feature, but that's the likelihood.

11 When we're dealing with the school district, without  
12 the federal constraints, and if you, these are moneys that  
13 are provided by the federal government that provide the kinds  
14 of constraints with respect to minimum release dates. But  
15 when we are not dealing with those, we will not be that kind  
16 or that constrained.

17 Q (By Rep. Guerrero.) I don't see any constraint at  
18 this time, as far as that goes.

19 That was my questioning.

20 A (By Mr. Trump.) Madame Chairman, may I make one  
21 comment to Representative Guerrero on the same subject?

22 The figures that you were referring to before,  
23 were gathered over a prolonged period of time. In other  
24 words, I was looking at, when you referred to the past  
25 administration, those figures were for approximately four

1 years that you have, that was a composite of the four years,  
2 the figures that I gave you are since the new administration,  
3 since July, of 1973, therefore it is quite possible that  
4 again over the projected period of time the balance would  
5 come back.

6 THE CHAIRPERSON: Thank you, sir.

7 Are there any other questions of these gentlemen?

8 REP. GUERRERO: Well, no, just I just wanted to  
9 add that prior to the time periods just expressed, it was  
10 in effect because I kept checking up on this thing for two,  
11 three years and it was fairly well established right on  
12 down the line.

13 Now I see a disparity, that's what's been kind of bothering  
14 me.

15 THE CHAIRPERSON: Are there any other questions  
16 for these gentlemen?

17 If not, we thank you for appearing.

18 A. (By Mr. Wright.) I would like to address myself to  
19 something, Madame Chairman, if possible.

20 THE CHAIRPERSON: I would remind that we are now one  
21 half hour behind schedule on our new time schedule.

22 A. I feel as though it's important, and that is that  
23 you heard testimony this afternoon to the effect that the  
24 officers at the Arizona State Prison were not well-trained.  
25 And I dare to say that while we're not totally pleased with

1 the training program as it exists today, I would point out  
2 that prior to this administration, there were two weeks of  
3 training, one of which was on the job training, and that  
4 when this administration came in, it undertook to establish  
5 a five-week training program, the five-week training program  
6 was designed to begin in August of 1973, however, with the  
7 tragedy of the two guards' deaths, it was necessary to under-  
8 take the training program earlier to provide more people to  
9 the yard so that the training program was cut back to an  
10 original three weeks during which time they would get a  
11 basic orientation to the procedures and the program at the  
12 Arizona State Prison, with a minor introduction to social  
13 interaction with the client population.

14  
15           However, and it's perhaps serendipitous in that as  
16 a consequence of our having to cut back the program at that  
17 time, the people who were enrolled in the program at that  
18 time have now been out on the yard for some three months  
19 and as a consequence now will be coming back for an additional  
20 two weeks of training.   Wherein the heavy emphasis will be  
21 on social and behavioral science with considerable amount of  
22 the time devoted to communications skills.

23           In addition to that there will be major orientations  
24 to the cultural backgrounds of all the inmates at the  
25 Arizona State Prison and I would refer you to I think about  
page 3 of the material compiled and distributed to you by the

1 department of corrections which indicate the basic syllabus  
2 from which this two-week additional training will be pro-  
3 vided.

4 I want to indicate that in addition to that, the  
5 department is promoting an educational program outside of the  
6 department in terms of working with community colleges  
7 in the development of an AA degree in corrections. This  
8 isn't fullblown at this point, but that's the direction  
9 which we're moving.

10 Thank you, Madame Chairman.

11 Q (By Rep. Guerrero.) Mr. Wright, this was made pos-  
12 sible before the present administration by statute, as far  
13 as the training of the guards.

14 A I'm sorry, what do you mean, what was made available  
15 by statute?

16 Q Well, you've heard that during this administration  
17 the guards now are taking training, this was done by statute  
18 during the past session, the last legislature.

19 A What was made available?

20 Q Making this training available to these guards.

21 A Did they appropriate funds to it?

22 Q I don't have the statute before me, it's been a year  
23 and a half ago.

24 A Well, it doesn't do any good to legislate something  
25 without providing the funds, we'd be happy to be able to

1 provide this training through a Law Enforcement Assistance  
2 grant from the federal government.

3 Q That paid it partially.

4 A That's the ~~largest~~ bulk of the money.

5 Q The state matches that in a percentage level.

6 A Yes, the state matches it in kind with roughly 10%.

7 THE CHAIRPERSON: Mr. Guerrero, did you have additional  
8 questions?

9 Are there any additional questions of the panel?

10 If not, we thank you, Gentlemen, for being patient and  
11 waiting until this hour tonight to speak to us.

12 The Chair would now like to call inmates Billy  
13 Burkhardt, Ray Reese and Paris Carriger.

14 We'll begin with these three gentlemen, starting with  
15 Mr. Carriger, would you kindly state your name, address and  
16 occupation, please?

17 MR. CARRIGER: Paris Carriger, Florence Penitentiary.

18 MR. REESE: Raymond Reese, I'm the librarian at the  
19 penitentiary.

20 MR. BURKHARDT: Billy Burkhardt. I'm in the CB4  
21 in the penitentiary.

22 THE CHAIRPERSON: Thank you.

23 Mr. Levis?

24 Q (By Mr. Levis.) Mr. Burkhardt, could you give a brief  
25 description of the recreational activities available to jail

1 inmates at the Arizona State Prison?

2

3

4

BILLY BURKHARDT

5

6 A. (By Mr. Burkhardt.) Yes, sir.

7

8 As far as the recreation is concerned, we get what  
9 they call IER yard, four, five times a week. There's weight  
10 lifting equipment out there, baseballs, bats, anything  
11 that you might want to participate in on the IER yard.

12 Q. Now, in addition to the IER yard, is there a  
13 general recreation field?

14 A. Yes, sir, that's what I called the IER yard.

15 Q. I see. And you say that contains baseball field --

16 A. Yes, sir, I think there's about three diamonds out  
17 there, three baseball diamonds.

18 Q. When are these facilities open to the inmates?

19 A. Well, in good weather, four, five times a week.

20 Q. Are they open every day to the best of your knowledge?

21 A. Yes, sir.

22 Q. As I understand, they're open in the morning for two  
23 and a half hours and the afternoon for two and a half hours?

24 A. Yes, sir, that's correct.

25 Q. Do you work?

A. No, sir, I have worked, but at the present time I'm



1 not working.

2 Q When you work is there any time during the week that  
3 inmates can go out to the recreation yard?

4 A Yes, sir, if they want to go out there they can go  
5 out there.

6 Q Do they work during the day?

7 A Yes, sir.

8 Q And the recreation yard's open during the day?

9 A Well, it all depends on where you work at, you know,  
10 some jobs that you work there inside the walls, the officers  
11 are pretty considerate in giving you the evening off in  
12 order to go out there and participate in some kind of  
13 sports activity.

14 Q Are there any indoor facilities for recreation?

15 A No, sir.

16 Q What happens when it rains or it's very cold, there's  
17 no area to go for recreation?

18 A No, sir.

19 Q Are there any arts and crafts, drama or music pro-  
20 vided for inmates?

21 A No, sir.

22 Q Are there movies?

23 A Yes, sir, I think there are now, they opened a new  
24 building up, I believe about a month ago, at that time I was  
25 placed in, I've been in, you know, confinement, for about

1 five or six weeks now.

2 Q Do inmates in confinement get exercise?

3 A Yes, sir, you get about an hour every day, I believe.

4 Q Could you give us a brief description of the commissary  
5 and how often inmates can go there?

6 A We draw up to \$20.00 every two weeks, on a certain  
7 day of the week each building or each side of the building  
8 is permitted to go to the commissary, you can go up there  
9 and at one time you could buy quite an assortment of goodies,  
10 but now it's cut down to cigarettes and candy, soda water,  
11 you know, cold things, but they're not cold, they're hot.

12 Q How often can you go, once a week?

13 A Yes, sir, once a week.

14 Q And you can spend \$20.00 every week or every two  
15 weeks?

16 A No, sir, every two weeks.

17 If you've got \$20.00 at the store, you can spend \$5.00  
18 or \$10.00 one week and go back the next week and spend the  
19 rest of it, but you have got to keep your store book clear  
20 until you can draw another \$20.00 on it.

21 In other words, you can't keep \$3.00 or \$4.00 on your  
22 book and then put another \$20.00 on.

23 Q You have to draw your \$20.00 first?

24 A Yes, sir.

25 MR. LEVIS: I have no further questions of this witness.

1 THE CHAIRPERSON: Does any member of the Committee  
2 have any questions of Mr. Burkhardt?

3 Q (By Mr. Williams.) Just one.

4 How much longer are you going to be in lockup?

5 A Well, under this new administration I don't have  
6 no, you know, any idea. Right now I'm in isolation doing  
7 15 days, I've been in isolation nine, I've been locked up  
8 five or six weeks.

9 Q Will you tell me the difference between lockup and  
10 isolation?

11 A Well, you're placed in lockup like I was, I was con-  
12 sidered a threat to the population when I got my writeup  
13 so I was placed in confinement until I went to the disci-  
14 plinary board.

15 At that time, I got a two weeks put off until my  
16 attorney could represent me. When my attorney come to rep-  
17 resent me, well, the officer that made the report, I be-  
18 lieve, had been on vacation or something, no, he was on  
19 suspension, so they had to wait two more weeks until they  
20 could bring the officer back and clarify whatever my report  
21 was and then I wind up with 15 days anyhow.

22 Q Well, is lockup and solitary, are you in the same  
23 cell, the same --

24 A No, sir. Lockup you've got your radio and television  
25 and you get your meals, so on and so forth. And isolation,

1 you've got your three meals a day without your dessert,  
2 you've got a mattress and pillow and a toilet and sink.  
3 Toothpaste and soap and towel. And that's just about it.

4 MR. WILLIAMS: Thank you.

5 THE CHAIRPERSON: Are there any other questions of  
6 Mr. Burkhardt?

7 Mr. Levis?

8 Q (By Mr. Levis.) Mr. Reese, you said you worked in  
9 the library?

10  
11  
12 RAYMOND REESE

13  
14 A (By Mr. Reese.) Yes, I'm the head clerk.

15 Q Could you give us an overview of the library, what  
16 kind of books it has and actually how inmates request books  
17 and how many inmates are allowed to go to the library at  
18 one time?

19 A I would say it was a medium-type of library, moderate.  
20 Visitation to that unit is limited.

21 Q Is it so many persons per cell block?

22 A Well, the building itself is limited on floor space  
23 and shelf space.

24 Q How big is the building?

25 A Well, I've never measured it, I don't really know.

1 It's fairly good-size. It's, I would roughly guess that it  
2 has about 200 square feet of floor space.

3 Q And what kind of books are in the library?

4 A Well, just about anything other than books on  
5 Communism, there seems to be a paranoia out there for Commu-  
6 nism.

7 We're restricted on those. Even ordering from the  
8 library extension service in Phoenix, we're restricted on it.

9 Q Now, can an inmate request any other book through you,  
10 through the library extension service?

11 A They can request it, but that doesn't necessarily  
12 mean that they're going to get it.

13 Q Does it have to be approved by the staff librarian or

14 A Well, no, I sent the request right out, but the  
15 library extension service has been ordered not to send  
16 certain books that deal with certain areas, for instance  
17 the Communists, and Judo and gun making, powder manufacturing,  
18 things like that.

19 Q In the other areas, how long does it take to get a  
20 book from the library extension service?

21 A Well, it's fairly speedy right now. We have a two-  
22 stage order system where I order the book from LES, and  
23 they locate the book, which might be in a, say a Yuma  
24 library, and I would have to reorder that same book from the  
25 Yuma library.

1 Q Now, I understand that inmates need a pass to go to  
2 the library, is that correct?

3 A Well, they need a two-stage pass.

4 Q First to go to the guardhouse and then to go to the  
5 library?

6 A That's the system that they use now.

7 Q And you said only a certain number of inmates can go  
8 at one time?

9 A Well, when we first set up the participation program,  
10 Mr. McLaughlin and my boss, Robert Au, we determined that  
11 there could be 25 people in the library, plus eight in the  
12 library at one, any given time.

13 And the cell house officers sort of split that up  
14 amongst themselves and determined that only six from each  
15 cell block could participate regardless of whether they  
16 wanted to work on legal work or read or write or whatever.

17 Q Now, for inmates in lockup, how do they get books  
18 from the library?

19 A Very seldom do they get to even request books.

20 The problem is not giving them books, it's delivering  
21 them to the individuals, because of the splitup of the  
22 system. Some are in lockup in IER, some in cell block 3 and  
23 some in the basement. And there is a few on deadlock.  
24 In the various cell blocks.

25 Q So, it's more difficult to get a book if you're in

1 lockup status?

2 A. Unless -- I can't personally run around the yard and  
3 deliver the books that's ordered, all I can do is ask my  
4 boss to do that. And when I ask him to do that, then  
5 naturally he has to lock up the library to do that because  
6 he has no assistant.

7 And for instance, the library has been closed today  
8 because he's been down here testifying, I suppose, and some-  
9 body neglected to get him a replacement so nobody worked  
10 on their law or read any books or anything.

11 Q. What are the hours of the library and how often is it  
12 open?

13 A. On the average, it averages out five hours a day.

14 Q. Seven days a week or five days a week?

15 A. Five days a week, sometimes.

16 THE CHAIRPERSON: Are there additional questions  
17 of Mr. Reese?

18 Mr. Williams?

19 Q. (By Mr. Williams.) Yes, are there any books that  
20 are related, like Black heritage books for minorities or  
21 books for the Mexican American?

22 A. Yes, there's Eldridge Cleaver (Phonetic) books, there's  
23 Bobby Seal (Phonetic) books, there's a book that Dick  
24 Gregory put out, there's many Black culture paperbacks, but  
25 I doubt if there's too many hardbacks. But they can be

1 ordered from LES, as long as they don't deal with the  
2 overflow -- the overthrow of the local government.

3 Q Florence government?

4 How do books, aside from the extension service, can  
5 books be donated to the library?

6 A Well, lot of the inmates' wives have brought books  
7 up and they're obsolete and old, but they are picked up by  
8 the officer after they've been determined that they're safe.

9 Q So there is a screening process for books to be ad-  
10 mitted into the library?

11 A Oh, absolutely.

12 Q (By Mr. Zah.) I've got one question.

13 What would you estimate, roughly, you were saying  
14 that you know when they order books, you know, that doesn't  
15 necessarily mean that they'll get it. In terms of percentage,  
16 how many would get it?

17 A Oh, just about anybody could order a book and get it,  
18 if that book was available at the time.

19 Q My question is if 100 inmates all ordered books, of  
20 their choice --

21 A I would say about 60 of them would receive it.

22 Q Sixty of them would?

23 A related question what Mr. Williams was saying, in  
24 terms of books, let's say on Blacks, what about so far as  
25 Native American books, Indian books?



1           A.     Well, we don't have no AIM books or anything like that,  
2 or BIA, or whatever it is, that -- Wounded Knee individuals  
3 is what I'm referring to. There are Indian books on Hopi  
4 culture and Apache culture and even Casa Grande culture, as  
5 far as any Indian books are concerned.

6           Dealing with their silversmith type of craft, To Bury  
7 My Heart at Wounded Knee is one particular book that I  
8 remember.

9           And we have been instructed to order from some of the  
10 Indian libraries. Not being able to pronounce their names,  
11 I wasn't going to be able to do that here today.

12           THE CHAIRPERSON: Are there any other questions of  
13 Mr. Reese?

14           Mr. Guerrero?

15           Q.     (Rep. Guerrero.) Are there books that, like that  
16 relate to the American Revolution, civil war, stuff like  
17 that, can you read those kinds of books?

18           A.     American heritage books deal with the civil war, the  
19 fight for independence, probably a resume on George Washington,  
20 or anybody else.

21           But as far as individual books that would advocate  
22 Black power or Indian power or just plain anybody's power,  
23 you can get.

24           THE CHAIRPERSON: Are there any other questions of  
25 Mr. Reese?

1 Mr. Levis?

2 Q (By Mr. Levis.) Mr. Carriger, you were a library  
3 clerk at one time?

4

5

6

PARIS CARRIGER

7

8 A (By Mr. Carriger.) Yes, I was.

9

Q You're not a library clerk at this time?

10

A No, sir.

11

Q Do you know how many books an inmate can take out  
12 from the library at one time?

13

A Two.

14

Q Are these hardbound books or softbound books or just  
15 any book?

16

A Both.

17

Q Now, if you go to school, are you limited to two  
18 books at one time?

19

A I'm not sure, I haven't been allowed to go to  
20 school here.

21

Q You stated you're allowed two books at one time, is  
22 that for a two-week period or one-week period or what?

23

A I believe it's two weeks, but I'm not sure. I've  
24 been locked up long enough that I haven't had any library  
25 privileges in some time.

1 Q You're in lockup, you say?

2 A I'm on the so-called psychiatric run.

3 Q Do you have commissary privileges?

4 A Yes.

5 Q Is it every two weeks as Mr. Burkhardt said, or --

6 A You can order, you order every two weeks, but as  
7 long as you've got money already over there, you can order  
8 whatever you want, every week, so long as that money lasts.

9 Q Now, do you order this through the guard on the run?

10 A Yes, they pass around a slip, have you write out what  
11 it is you specifically want, a guard comes by later and  
12 collects it, sends it over to be billed. Then brings the  
13 things over and has you check it out, you sign for it.

14 And it is cleared in this manner.

15 MR. LEVIS: Thank you, I've no further questions of  
16 Mr. Carriger.

17 THE CHAIRPERSON: Does anyone else have questions?

18 Q (By Mr. Zah.) Yes, I have one other question.

19 I'd like to ask you the same question, my first  
20 question related to if 100 inmates ordered a book, how many,  
21 in your estimate, or during the time that you were library  
22 clerk, what would your estimate be, would you agree with  
23 Mr. Reese?

24 A At the time that I worked in the library, I had a  
25 minimum that allowed me to go into any of the segregation

1 sections, anyplace where the man couldn't get out, figure  
2 out what kind of book he wanted, check it out for him and  
3 take it to him, this is prior... to the new administration.

4 I have several other specific remarks and statements  
5 that involve specific names, etcetera, facts of information  
6 that I was curious, how do you go about putting it in?

7 MR. LEVIS: Mr. Carriger, for your information,  
8 specific facts that relate to specific incidents that relate  
9 to specific names, would have to be either heard in closed  
10 session or admitted into the record for observation by  
11 the -- written into the record and we observe the docu-  
12 ments that you submitted and based on that, if we felt  
13 there was anything to go further, we would contact you and  
14 the department of corrections.

15 A. I am not sure, should I explain what specific areas  
16 they fall in or what?

17 THE CHAIRPERSON: Well, if you were going to refer  
18 to specific individuals at this time, Mr Carriger, we would  
19 have to ask you to do it in closed session with members of  
20 this Committee.

21 If you wanted to refer to very general items, in a very  
22 general nature without specifying names, dates or places,  
23 we could allow you to continue on in a very general sense.

24 MR. LEVIS: Or you could submit your evidence to us  
25 and we could then get back to you after the Committee has

1 a chance to study the evidence.

2 A In the most general terms, they deal with items  
3 disappearing because of lack of receipts after shakedowns,  
4 they deal with so-called brutality, name-calling, improper  
5 handling of specific situations, the particular area that  
6 I live on now is somewhat delicate in the fact that it  
7 deals mostly with people who are emotionally imbalanced.

8 And in many cases incapable of controlling themselves,  
9 and where this type of abuse is common, it creates a hard-  
10 ship on specific individuals. And in several cases has  
11 resulted in criminals and such being put into the record,  
12 disciplinary reports, one type or another.

13 THE CHAIRPERSON: Mr. Carriger, would it be possible  
14 for you to leave with us the examples that you have so we  
15 can look at it and contact you?

16 A I only brought the one that I had written proof of,  
17 and one that I had seen personally, and didn't include me,  
18 other than the fact that I was standing there watching it.

19 And the particular proof was merely an institutional  
20 record that was given the individual inmate about what was  
21 done, and it differs considerably with what I saw, and the,  
22 you know, racial discrimination, etcetera, that went with  
23 it wasn't even mentioned, and it says here that --

24 THE CHAIRPERSON: Mr. Carriger, we can't allow you to  
25 read that because it does refer to a specific time and place

1 and person, what I would like to know is can you leave that  
2 material here with us?

3 A. Yes, Ma'am.

4 THE CHAIRPERSON: All right, thank you very much.  
5 Are there any questions of Mr.--

6 Q. (By Mr. Zah.) I have one.

7 Mr. Carriger, in your talk, you know, you mentioned  
8 psychiatric run --

9 A. Yes, sir.

10 Q. -- could you describe the conditions?

11 A. Well, recreation on psychiatric run <sup>mc53</sup> consists of being  
12 turned out three times a week for one hour at a time, into  
13 an enclosure roughly 45 feet by maybe 20, cement slab,  
14 it's got a basketball net in it, no basket ball. Sometimes  
15 there is a volleyball in there but not often.

16 There is no other form of recreation for the psychia-  
17 tric runs, with the exception of what you can personally  
18 afford, if you have money enough for a TV, you can watch TV  
19 but there are no movies furnished. Most of them because of  
20 the fact that being unstable and sometimes rather destructive  
21 they don't get library books.

22 We have little or no ability to carry any other  
23 recreational form, and none at state expense.

24 THE CHAIRPERSON: Are there any other questions of  
25 Mr. Carriger?

1 Q (By Dr. Glass.) I'd like to ask, Madame Chairman,  
2 one quick, real quick question.

3 How do the commissary prices in the commissary  
4 compare with the outside prices on things, if you've been  
5 out recently?

6 A Well, I haven't been out recently, but I used to  
7 order for my father from Associated Grocers and I've noticed  
8 that some prices, this was before they were chocked up, in  
9 standing in the line and watching and listening to what  
10 went on, I have seen some items change in price from inmate  
11 to inmate, but the one and only example that comes to mind  
12 immediately was a bar of soap. I saw it change three times  
13 in price, you know, just a few cents here or there, but I  
14 have in the past made complaints of short change, etcetera,  
15 and my lawyer explained it would be much too hard for me to  
16 try to prove so he dropped it.

17 This was over a year ago.

18 DR. GLASS: Thank you, Mr. Carriger.

19 Madame Chairman, that's all.

20 THE CHAIRPERSON: Thank you.

21 Mr. Reese, I did have one question.

22 The women's prison has its own library? Or do you  
23 know this?

24 A (By Mr. Reese.) Yes, they have their own library, but  
25 they still order library extension books through me.

1 THE CHAIRPERSON: That was going to be my question,  
2 can they also avail themselves of the services of your  
3 library, if you have books?

4 A. I wish they could, but unfortunately they can't.

5 I'm all for it, personally. But Mr. Moran back here  
6 is against it so he packs more power than I do.

7 THE CHAIRPERSON: You do order books for them, though,  
8 through the library extension service?

9 A. Yes.

10 THE CHAIRPERSON: If they have a book they want, they  
11 can order it through you?

12 A. Yes.

13 I would like, if it would be possible, to clear up a  
14 question of Mr. Williams, and Mr. Zah, dealing with Black  
15 books, Black culture books and Indian culture books.

16 I think that there's a lot to be desired in that, in  
17 that there are many more than we should have and could have  
18 if we were just appropriated some sort of funds for it.

19 We've hashed it over and over many times, I'm sort  
20 of outspoken on that, as far as people reading, I think that  
21 every human being should have an education that, the type  
22 that he would like, and most Indians like Indian education  
23 and most Blacks like a Black education.

24 In dealing with the mail that we receive from the  
25 different publishers, there's many Black and Indian books



1 that could be had which we don't have.

2 THE CHAIRPERSON: Thank you very much, Mr. Reese.

3 Are there any other questions of these three gentlemen?

4 If not, we'd like to thank you very much for coming  
5 this evening.

6 A. (By Mr. Carriger.) I have a question before you  
7 close it, part of this would have to be explained. There  
8 are pictures that I couldn't get back into the prison, do  
9 I leave them here or what?

10 THE CHAIRPERSON: Mr. Carriger, I believe we can make  
11 one of the staff members available to you to talk to  
12 you right before you leave.

13 A. Yes, Ma'am.

14 THE CHAIRPERSON: Thank you.

15 Q. (By Rep. Guerrero.) Mr. Carriger, is this documentation  
16 you have in your possession of occurrences that have  
17 occurred during this administration?

18 A. Some of it, some of it is. Most of the documentation  
19 in as far as it goes is merely the specific dates on which  
20 I made complaints to Mr. Moran, Mr. Duke, etcetera, to  
21 that office. Yes. And the specific dates, the witnesses  
22 involved and the fact that I have been unable to take them  
23 before any power beside the prison guard, which stand there  
24 and looks at me like, you know, I'm a little bit of an  
25 idiot. And it gets sloughed off, nothing is done about it.

1           And it's my belief that this particular type of con-  
2 dition ought to change. The pictures that --

3           THE CHAIRPERSON: We're not going to get into that  
4 at this point, we will make a staff member available to  
5 you, Mr. Carriger, to talk about the pictures.

6           Ms. McCullah, did you have one question.

7           Q     (By Ms. McCullah.) Mr. Carriger, you mentioned  
8 psychiatric run, this afternoon we heard specifically about  
9 the treatment of, you know, emotionally disturbed inmates.  
10 Do you receive any sort of medication in relation to --

11          A     I am on medication, I don't know what it is, the  
12 doctor explained to me that it was very mild, whatever it is,  
13 and I have not been told for what condition I'm being  
14 treated, but whatever it is, it doesn't involve hallucina-  
15 tions or anything of this type.

16          Q     Is it a depressant, a tranquilizer, do you --

17          A     I have no idea.

18          Q     I mean do you have any reaction?

19          A     Whatever the medication is I can't tell that it does  
20 a thing to me.

21          MS. McCULLAH: Thank you.

22          THE CHAIRPERSON: Thank you, again, Gentlemen.  
23 We would like to thank you very much for appearing  
24 here this evening before us.

25          The Chair would like to now call Mr. Gilbert Dockery,

1 Mr. Jeff Martin and Mr. Robert Au.

2 Mr. Dockery, if you would start, please, and give us  
3 your occupation and your address, for the record, please?

4 MR. DOCKERY: My name is Gilbert Dockery, store manager,  
5 prison.

6 MR. MARTIN: Jeff Martin, athletic relations director,  
7 state prison.

8 THE CHAIRPERSON: Do any of the Committee members have  
9 questions of these two gentlemen?

10 Q (By Mr. Williams.) Mr. Martin, what type of work  
11 facilities are available for the male and female inmates?

12

13

14

JEFF MARTIN

15

16 A (By Mr. Martin.) What type? There is -- you want  
17 me to go down the line and tell you what's available to the  
18 inmates?

19

Q Yes.

20

21

22

23

A There's basketball, football, softball, weight lifting,  
croquet, volleyball, shuffleboard, boxing, and different  
types of card games and recreation, dominoes and chess and  
this sort of thing.

24

25

Q Are most of these for the male inmates or are the  
same basic things available to female inmates?

1 A. Basically, I believe I used to have some good women's  
2 division, not anymore.

3 Q. What kind of hours are these activities available  
4 to the inmates?

5 A. They're available two and a half, approximately two  
6 and a half hours in the morning and two and a half hours in  
7 the afternoon. Seven days a week.

8 And then, in the summertime, daylight hours permitting,  
9 we have evening recreation too.

10 Q. What kind of activities are available for inclement  
11 weather?

12 A. None.

13 Q. Are any recreational activities available for the  
14 men that are in lockup?

15 A. There's a limited, there's a limited area that they  
16 have to have their recreation in.

17 Q. You mean within the cell block itself or --

18 A. Well, within the area behind the cell block.

19 Q. Is this the area that was referred to earlier with  
20 the basketball court?

21 A. Right, sir.

22 For the record, I might add the gentlemen you had  
23 here a while ago testifying, I don't think either one of them  
24 has been on the athletic field over three or four times  
25 that I've been there.

1 Q Do you also have movies?

2 A Yes, sir. We have two a week. And plus holidays,  
3 I should add.

4 Q Can anybody go to the movies or how do they get  
5 passes or how --

6 A No, sir, they're by cell blocks.

7 Q They're by cell blocks?

8 A Yes, sir, and by sections, you know, IER goes  
9 separate and the OT goes separate.

10 Q How are the movies and the recreational materials  
11 obtained, how are they paid for?

12 A It's -- comes from money from the canteen, inmate  
13 store and the Cutter Lab program.

14 Q What percentage of money from the Cutter Lab and  
15 from the canteen is used for this purpose?

16 A All the proceeds, is any A and R. Amusement and  
17 recreation fund is what A and R stand for.

18 Q Is there any accounting of the money to the inmates  
19 for the uses that you've just detailed?

20 A Not that I know of.

21 Q Is there any music or drama or crafts, any hobby  
22 shops available to the inmates?

23 A Music probably would come closest to anything that  
24 you mentioned.

25 Q There is music, what kind of music?

1 A Oh, I don't know exactly, that's not one of my  
2 prime responsibilities.

3 Q (By Mr. Levis.) I just have two questions of Mr.  
4 Martin.

5 I don't know if these have been asked, so pardon my  
6 questions. Are there any indoor facilities for athletics?  
7 I think this was brought up today?

8 A No, sir, there is not.

9 Q So, what happens to the inmates in inclement weather?

10 A They stay in their cells.

11 Q Have there been any proposals for indoor facilities,  
12 have you requested this or --

13 A Well, I've brought it to the attention of the old  
14 administration and the new administration, yes, they're  
15 aware of a need for this at the present time. But there is  
16 other priorities.

17 Q Do you think it would be a good idea?

18 A For indoor facilities?

19 Q Right.

20 A Absolutely, sir.

21 Q What kind of facilities are we talking about?

22 A Well, probably a gym or a fieldhouse what you might  
23 call, where you have a variety of activities you can have.

24 Mainly I think I might add, it wouldn't be for in-  
25 clement weather, because in Arizona, in our county, there's

1 very few days we have inclement weather, which in my idea,  
2 strictly my opinion, is for the evening to where the men who  
3 works all day they don't have a chance to participate in  
4 the recreation they could have a chance to participate in  
5 the evenings.

6 Q Those inmates who work only participate on the week-  
7 ends?

8 A Yes, sir, and holidays, then you're competing with  
9 your movie and your visits.

10 Q Did Mr. Williams ask you about the movies or --

11 A He just touched on about the movies, yes, sir.

12 Q The fact there are two a week and --

13 A Yes, sir.

14 Q -- when were these resumed? I know they were stopped  
15 when the old facility was torn down.

16 A Right, until we got our new facility and projectors  
17 and we all got all new movie equipment and it's been a month  
18 or so, or two.

19 Q And the same movies are shown at the women's  
20 facility?

21 A Yes, sir, identical.

22 MR. LEVIS: I've no further questions of this witness.

23 Are there any other questions of Mr. Martin?

24 Mr. Williams, did you have some questions of Mr.  
25 Dockery?

1 Q (By Mr. Williams.) Yes, I do.

2 Could you give me an idea of what kind of articles  
3 are available at the commissary store?

4

5

6

GILBERT DOCKERY

7

8 A (By Mr. Dockery.) Well, I have a list here of what  
9 we have available now. We have all the -- for the women's  
10 division we're quite limited on women's division.

11 For them we just have bobby pins, Noxzema, Ponds Cold  
12 Cream.

13 MR. LEVIS: Madame Chairman, I don't mean to inter-  
14 rupt but for the purpose of time, I think we have that  
15 list.

16 A Yes, we did send you a list.

17 THE CHAIREPRSON: We'll just go ahead and enter it  
18 into a record, if that's all right with you, Mr. Dockery.

19 Q (By Mr. Williams.) Could you tell me just out of my  
20 curiosity, talking to some of the inmates, how the price  
21 structure for the articles sold is arrived at, do you sell  
22 them for the wholesale price or do you mark them up?

23 A We purchase them wholesale or direct from the factory,  
24 it's 10%, all we're allowed to make on any item is 10%.

25 Q So, every item would be marked up exactly 10%?



1 A. Ten percent.

2 Q. And there are no special items that would be marked  
3 up more?

4 A. No.

5 If you'll notice, you'll see our monthly profit and  
6 loss reports, we have it in front of you. We will average  
7 between 8% and 11% for the last year and a half. That's due  
8 to the fluctuation of prices for the -- that are purchased,  
9 now everything's going up.

10 Q. What types of articles are available in the inmate  
11 store are forbidden in the main yard?

12 A. Main yard we've forbidden anything with glass con-  
13 tainers, cans, and shave, this Rapid Shave or the present  
14 ~~Rise~~ lather.

15 Q. What hours is the store open?

16 A. Eight to 11:00 and from 1:00 to 4:00.

17 Q. Is there five or seven days a week?

18 A. That's five days a week.

19 Q. How do you handle the orders from the female inmates?

20 A. They are -- they have store slips passed among them,  
21 they fill them out, we send for them and they have store  
22 bags that we fill. And they receive it and we fill their  
23 store bags, check twice by an inmate and finally by myself,  
24 all the corrections noted on their store slip, all prices  
25 noted on the store slip, and their account credit card,

1 this card here, is sent back with the bag which they sign  
2 to verify that they did receive what they ordered.

3 Q How are the profits from the store used?

4 A How is it used? A and R fund.

5 THE CHAIRPERSON: Would you explain A and R fund?

6 A Athletic and recreation.

7 Q (By Mr. Williams.) What kind of procedure is followed  
8 for the inmates in their lockup status to have access to  
9 the store?

10 A That's, it's just about the same as the women's  
11 division, same slip system, this is picked up by an officer,  
12 inspected by an officer and signed by an officer.

13 Q You mean the items that were received are signed by  
14 the officer, does the inmate also sign what he receives?

15 A Correct.

16 THE CHAIRPERSON: Are there any other questions of  
17 Mr. Dockery?

18 MR. LEVIS: Madame Chairman, I don't have any ques-  
19 tions but I think we should admit Mr. Dockery's written  
20 responses to the questions that I asked him in the letter  
21 into the record.

22 A I said I think in its entirety --

23 MR. LEVIS: Right, and I think it explains much of  
24 what he said today, plus it expands on that.

25 Q (By Mr. Williams.) This is the procedures for inmates

1 who desire to purchase items from the inmate store, Arizona  
2 State Prison.

3 THE CHAIRPERSON: We will enter that as an exhibit  
4 as part of the permanent record.

5 Do any of the other panel members have any other  
6 questions?

7 If not, we'd like to thank you both for waiting so  
8 long and for testifying here tonight.

9 Mr. Geisenhoff, if we could have the ladies from  
10 the Arizona State Prison, Women's Division come forward,  
11 please?

12 Ladies, as you know, we have now come to the formal  
13 end of the questioning we have scheduled for today. The  
14 panel has been here since 8:00 o'clock this morning, which  
15 now makes it 15 hours and 20 minutes, as have quite a few  
16 of the people participating.

17 We would like to limit your remarks to ten minutes,  
18 if we could, and we'd be glad to have any one or all of you  
19 do the speaking.

20 MR. LEVIS: Madame Chairman, I have a question as to  
21 why Mr. Duke is present, if the women inmates are making  
22 a presentation, I see no reason why Mr. Duke should be  
23 present.

24 MR. DUKE: Is that an objection?

25 MR. LEVIS: I -- it is an objection. I think I'm

1 addressing it to the Chair.

2 THE CHAIRPERSON: Mr. Duke, you may please respond  
3 if you would like.

4 MR. DUKE: I really don't know how to respond to it,  
5 this is the first time I've been on this end of an objection.  
6 In the last two days.

7 THE CHAIRPERSON: The record will please note Mr.  
8 Duke has generally made the objections rather than receive  
9 them.

10 MR. DUKE: I don't see any particular ethical con-  
11 frontation or --

12 MR. LEVIS: Again, it's the inmates who have requested  
13 to testify.

14 MR. DUKE: -- or administrative confrontation with  
15 the department of corrections or the women themselves, I  
16 don't plan to testify for them, I was just going to make  
17 a brief introductory statement, they will comment for  
18 themselves.

19 REP. GUERRERO: Is this usual, Madame Chairman? If  
20 witnesses have requested to come before the Committee, I  
21 don't think anybody has to speak for them, they should be  
22 able to speak for themselves.

23 THE CHAIRPERSON: Mr. Guerrero, they will be able  
24 to speak for themselves, Mr. Duke has asked to make a short  
25 introductory statement, please proceed.

1 REP. GUERRERO: Is he representing those persons?

2 MS. DERRINGER: We have asked him to make that  
3 statement before we begin.

4 THE CHAIRPERSON: Thank you.

5 Mr. Duke?

6 MR. DUKE: Briefly and for the record, and in  
7 compliance with the discussion with Mr. Muskrat earlier,  
8 we'd like to enter an objection of my own, if I could,  
9 please, and that's to the ten-minute limitation that's been  
10 placed on us. I realize that this is a discretionary act  
11 allowing these women to appear, however, certain circum-  
12 stances have arisen, you should have been informed of some  
13 of them, that we think if the Committee is not obliged we'd  
14 be very interested in hearing their testimony. And on be-  
15 half of them, it is their opinion that ten minutes is not  
16 sufficient.

17 We would just formally like to enter that on the  
18 record, they do not feel they can do it in ten minutes.  
19 However, they will make the best effort to comply with that.

20 In fact, we don't think we'll even take ten minutes.

21 We would appreciate any questions and you can take  
22 as long as you'd like.

23 On behalf of the women they've two general reasons  
24 for being here, with regard to the sessions yesterday involv-  
25 ing the women's division.



1 a statement in general, that I'd just like to read into the  
2 record. It will make it breifer for what we have to say it,  
3 it reflects all of our feelings in general.

4 The facilities and the programs and educational  
5 outlets that are available to each and every inmate are  
6 available regardless of race or creed. If you wish to  
7 speak in terms of minority groupings or racial prejudices  
8 there are no restrictions in any of the outlets mentioned  
9 that are placed upon participation by the administration.  
10 Limitations placed on any programs, educational or  
11 recreational, are placed there only by the inmates them-  
12 selves.

13 When you have an inmate fighting against her own  
14 improvement strictly for the sake of fighting the establish-  
15 ment, it makes no difference how much is made available  
16 such an inmate will not cooperate or participate, and will  
17 do all in her power to destroy any program that could prove  
18 accomplishment by the current administration.

19 Unfortunately, the Committee such as the Civil Rights  
20 hear a biased side to the issues they raise and a few  
21 personality classes are played up and made an example for  
22 all.

23 We, the majority of the inmates, Black, White, Indian,  
24 Chicano, every race and creed do not want the jackets placed  
25 on us by one who is obviously using the Civil Rights Committee

1 as a platform for airing a personal grievance contrary to  
2 truth.

3 Mr. Geisenhoff and Ms. Ward, have never shown bias  
4 or prejudice to any inmate, we all know the rules and  
5 penalties for infractions of the rules.

6 The main point not mentioned before is the fact that  
7 isolation time is rarely given to anyone, and 90% of the  
8 writeups given for infractions of the rules are dismissed  
9 prior to disciplinary action. Anyone receiving isolation time  
10 has been repeatedly warned, received prior writeups nine  
11 times out of ten, and is still flaunting authority.

12 We are all aware that continual breaking of rules  
13 will result in isolation, and therefore anyone who has re-  
14 ceived isolation time has done so because it was their  
15 choice, not Mr. Geisenhoff's and not because of any preju-  
16 dice on anyone's part.

17 And that's basically our feeling.

18 DR. GLASS: Madame Chairman. I'm wondering if you  
19 would like to enter this as a matter of record with our  
20 group here?

21 A Yes, we said we would prepare this for entering into  
22 the record.

23 THE CHAIRPERSON: We'll also enter the written state-  
24 ment as an exhibit, if you would like.

25 A That's fine.



1 THE CHAIRPERSON: Are there any questions of the  
2 ladies?

3 Q (By Mr. Levis.) I just have one question.

4 First I wish the other women could identify them-  
5 selves for the record? Starting with Ms. Richardson?

6 MS. RICHARDSON: Armentha Richardson.

7 MS. ZARATE: My name is Eva Zarate.

8 MS. DAVIDSON: Paula Davidson.

9 MS. TOSATTO: Paulette Tosatto.

10 Q You are all inmates at the women's division?

11 MS. ZARATE: Yes, we are.

12 Q And Ms. Derringer, I think you said you represent  
13 the majority of inmates, how many inmates signed that state-  
14 ment you read?

15 A No one has signed it, but I think that Ms Davidson  
16 has something to say with regard to what the proceedings  
17 the last few days and the results of this hearing have  
18 brought down on our community.

19  
20  
21 PAUL DAVIDSON

22  
23 A (By Ms. Davidson.) I'd just like to say that as a  
24 result of what took place in Phoenix yesterday, it's a very,  
25 very small minority that are bringing up all these problems

1 in the prison, today was close to riot condition because  
2 of what was said yesterday, because one individual stood  
3 up for what was right, told the truth, other individuals  
4 got up and put their personal grievances on the table  
5 instead of telling what was the truth.

6 And there have been personal threats made to people  
7 that they knew we were going to come and testify here  
8 and I, for one, have been put into lockup because I was  
9 being released tomorrow, and this is for my own protection.

10 And it only is a few inmates in the women's division  
11 that are all crying prejudice and it is only the minority  
12 group that is crying prejudice, there is no one in there  
13 that is prejudiced as far as I am concerned, everyone is  
14 created equal and the only people that have ever said any-  
15 thing to me that has ever been prejudiced has come from the  
16 minority group, it has never come from anyone, anyone else  
17 in the prison.

18 THE CHAIRPERSON: Mr. Levis, do you have any other  
19 questions?

20 I think Representative Guerrero had a question, I'll  
21 defer to him.

22 REP. GUERRERO: No, I was just wondering the same  
23 thing that you did, that, you know, if they were speaking  
24 for the entire population, the majority or if they had  
25 some more signatures on that?

1 A (By Ms. Derringer.) I'll be glad to type this and  
2 submit it with signatures.  
3

4  
5 EVA ZARATE  
6

7 A (By Ms. Zarate.) There's many people who would like  
8 to testify but they are really afraid, because threats  
9 are made that if any of us come up here to stand up for  
10 administration, why, we have to stand the consequences and  
11 many people just don't have the nerve.

12 Q (By Mr. Levis.) Excuse me, you're Ms. Davidson,  
13 is that correct?

14 A (By Ms. Davidson.) Yes.

15 Q You mentioned that a minority, some minority inmates,  
16 now do you mean by minority you mean minority in terms of  
17 number or minority in terms of any specific race, just  
18 clarify that?

19 A Minority in terms of the Black inmates at the prison.

20 THE CHAIRPERSON: Are there any other questions of  
21 any of the ladies here?

22 Ms. Derringer, I think you did state that you would  
23 be glad to type that statement and have it signed, there is  
24 a period of 30 days within which any documents can be  
25 submitted to the Committee for inclusion into the statement,

1 so you're more than welcome to have that statement --

2 A. (By Ms. Derringer.) We do have additional comments  
3 to make that we will make in writing.

4 THE CHAIRPERSON: Fine, thank you.

5 Are there any additional comments?

6 Q (By Rep. Guerrero.) Is it only the Black minority  
7 who is complaining or which, how much minorities do you  
8 have there anyway?

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PAULETTE TOSATTO

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A. (By Ms. Tosatto.) I find that it is not only the  
Black minority, I live in a dorm where we have Blacks and  
my very good friend is Black, we've never been prejudiced  
against. I feel as if it is the minority of them, and not  
a race of people.

18

THE CHAIRPERSON: Thank you.

19

Are there any other questions?

20

21

If not, Ladies, we thank you very much for coming to-  
night and making the statement to us.

22

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25

A. (By Ms. Derringer.) May I make one additional comment  
before we go? That's the fact that the minority group we  
spoke of when we said they were complaining and raising cane,  
is not going by race or anything else, you have a small group

1 of inmates that have been there for a longer period of time,  
2 they still go by the old school of thought that anything  
3 the administration backs they do not want to back. They  
4 will cut off their own nose to spite their face, regardless  
5 it has nothing to do with Blacks or otherwise, you have a new  
6 type of convict coming in who wants to rehabilitate herself  
7 or whatever, but going by the women's division, they're  
8 going by the rules, they're getting involved.

9 The ones who are objecting to us going for the ad-  
10 ministration are the old school of convicts who believe in  
11 fighting the administration.

12 THE CHAIRPERSON: Thank you.

13 A. (By Ms. Tosatto.) I would like to say one other  
14 thing.

15 I was in Arizona State Women's Prison when this new  
16 staff came in and I have seen nothing but good happen since,  
17 believe me, I can't believe it.

18 THE CHAIRPERSON: Again, thank you very much, Ladies,  
19 for coming before us tonight to testify.

20 Gentlemen, we have now almost completed five days  
21 worth of work in two.

22 What we would ask of both of you to make a very  
23 brief statement, I'm sure that you probably want a breifer  
24 statement than even we do at this point.

25 MR. MORAN: Will be.

1 THE CHAIRPERSON: As closing, remarks that either of  
2 you might have.

3  
4  
5 JOHN J. MORAN:

6  
7 A. (By Mr. Moran.) Madame Chairman, I guess we have  
8 two members, three members of the Committee left.

9 THE CHAIRPERSON: We have five.

10 A. I didn't know all this time you were a member of the  
11 Commission.

12 But seriously, I don't intend to say very much. I  
13 think an awful lot has occurred here the past two days, I  
14 think probably the women that preceded me could have summed  
15 up where we think we are better than I could, I don't intend  
16 to get into any kind of a detailed rebuttal of anything  
17 that was said.

18 At the same time, I recognize that this is the last  
19 opportunity that I have to do this. We will continue to  
20 respond in writing, we do have a problem in that regard,  
21 however, I think it's significant to mention in that there  
22 are legal restrictions and it's difficult for us to  
23 respond specifically with official records and so on, since  
24 they are in fact restricted to law enforcement and criminal  
25 justice agencies. So, we'll have to respond, I'm sorry to say,

1 in a general way, but we will, and in that connection I  
2 would just ask you how we might obtain copies of the major  
3 written affidavits that were presented, particularly by in-  
4 mates here today, so that we may properly respond?

5 I hesitate to throw out any more statistics, but I'd  
6 be the first to admit that I've learned quite a bit here the  
7 last two days. And I hope everyone has.

8 I'm proud of what our staff has done, that would account  
9 for whatever degree of defensiveness I might have displayed,  
10 because they've worked very hard, very long, and they've done  
11 much.

12 But one thing I did learn and I'll just say it very  
13 quickly, these are rough figures representative, my little  
14 mathematics, based on what people were saying today, we have  
15 34.4% of our adult felon inmates in minimum custody programs.  
16 We have 11.3% in medium custody programs. And we have  
17 45.2% in maximum custody programs. I don't believe there's  
18 another jurisdiction in the country that can relate to  
19 those figures.

20 This, for the most part, has been done in one year.  
21 Just to hit some of the highlights, we're not at all satis-  
22 fied with our psychiatric care at the prison, we recognize  
23 its deficiencies, we would never appear before this group or  
24 any other group, and say that one psychiatrist and one psycho-  
25 logist can meet the needs of 1,400 people.

1           We're working very diligently through out budget  
2 process to get the necessary gear in that area. We  
3 recognize also that there is also concern about inmate  
4 accounts, inmate recreation funds, and this is always a  
5 source of great concern to me. And when an overall audit  
6 of the department of corrections was conducted in recent  
7 months, they were specifically asked to look extremely care-  
8 fully at all inmates accounts and also with respect to the  
9 management and operation of the recreation funds and we  
10 have a specific letter which says that that thing is a  
11 100% A, okay, that's something that I'm always concerned  
12 about.

13           Just quickly, I would like to respectfully offer  
14 this. We heard some inmate testimony today, those situ-  
15 ations are not at all simple, they're very complex, they  
16 represent very complex personalities, all kinds of situ-  
17 ations. Many of them repetitive and out of the 1,400 whatever  
18 we got in the prison right today, we have 24 inmates in the  
19 so-called care and custody category, care and treatment cate-  
20 gory. I make no apologies for that, it's within the purview  
21 and legalities of the Copple order, we have 24 men in that  
22 category that we feel need to be in that category to  
23 maintain the basic human and civil rights of the other  
24 1,360, whatever they are.

25           We think it's legal, it's in their best interest so we



1 make no apologies for that.

2 I would just like to conclude by saying that I have  
3 found out a lot the last two days, overall, I think it's  
4 been a positive event, I would just conclude by saying that  
5 you ought not to forget what I thought were very wise  
6 words on the part of our female inmates, namely the kinds of  
7 difficulties that these things can create among inmate  
8 populations if they're not handled in the highest pro-  
9 fessional ways and with the greatest care.

10 I want to thank the total Commission and the staff  
11 for their courtesies, and would like to conclude and I  
12 mean this sincerely, you know who we are, but we really  
13 don't know who you are. You have our pedigree, now I  
14 would like to ask the members of the Commission who they  
15 are, for the record.

16 THE CHAIRPERSON: I think that's probably a very fair  
17 and legitimate request, Mr. Moran, I would start with  
18 Mr. Williams.

19 MR. WILLIAMS: My name is Ted Williams, I'm employed  
20 by the IBM Corporation and I live in Phoenix, Arizona.

21 REP. GUERRERO: How much does he want to know about?

22 MR. MORAN: Well, as much as you want to know about  
23 me.

24 REP. GUERRERO: Well, I never have, to this point, to  
25 ask you, Mr. Moran, to ask you about any of your experiences

1 or your background. But I'll go ahead and tell you what my  
2 background is if that's what he wants.

3 I'm in my fourth year in the state legislature. I  
4 was born in Globe, Arizona, I'm a Gila County native of the  
5 state, I was educated in the State of Arizona. I'm a  
6 veteran, I'm the president of the largest single local union  
7 in the State of Arizona. We've a membership of 10,000  
8 members.

9 I was on the city council with the City of Globe  
10 three terms, is that sufficient? I can keep going on and  
11 on some more.

12 MR. MORAN: Does your union employ excons?

13 REP. GUERRERO: Mr. Moran, I made a remark yesterday  
14 that our local union has an award hanging on the wall that  
15 was given to our business manager, Bill Salturo, by the  
16 exoffender program for participation in placing exoffenders  
17 and the recidivism rate of exoffenders we've taken into  
18 our organization is very, very minimal. In fact, they make  
19 our best members, and they are our best workers.

20 MR. MORAN: Thank you very much.

21 But I'd like to advise you about the trade advisory  
22 council.

23 THE CHAIRPERSON: Thank you, Mr. Moran.

24 Ms. Palmquist?

25 MS. PALMQUIST: For the record, it's Mrs. Palmquist,

1 not Ms.

2 I'm on the editorial staff of the Yuma Daily Sun,  
3 which is the only daily newspaper in Yuma, Arizona.

4 I'm fairly new to Arizona and been here only three  
5 and a half years and getting my feet wet in the very southern  
6 end of the state. I'm also a housewife, mother of two  
7 little children, vice president of the League of Women Voters,  
8 on a school board tax relief commission, just to hit the  
9 top highlights.

10 MR. LEVIS: I think Mr. Moran knows who I am, Bill  
11 Levis, Regional Attorney for the Mountain States Regional  
12 Office of the Commission.

13 THE CHAIRPERSON: I'm Diane McCarthy, Member of the  
14 31st Session of the Arizona State Legislature from Glendale,  
15 Arizona. Married, I make my living when I'm not in the  
16 legislature as an educational consultant in the field of  
17 vocational education.

18 MR. MUSKRAT: I'm Joe Muskrat, Regional Director of  
19 the Mountain States Region for the United States Commission  
20 on Civil Rights.

21 MR. ZAH: My name is Pete Zah, I am a resident of  
22 Arizona, contrary to some other beliefs, citizen of the  
23 United States, a member of Navajo Nation. I guess I am a  
24 concerned person in the State of Arizona because with my  
25 tribe, the legal services program which I work for and the

1 tribal offender program we do get lot of these exoffenders  
2 going back to the reservation and trying to put them out on  
3 a job and I know many of them want to come down and visit  
4 some of the inmates here who are relatives, and so that I  
5 have those concerns, that's one of the reasons for my being  
6 here.

7 DR. GLASS: I'm Dr. John Glass, at the present time  
8 I'm President of the Arizona Correctional Association,  
9 President of the Maricopa Mental Health Association, I  
10 practice dentistry just as a hobby.

11 REP. GUERRERO: Madame Chairman, I'd like to say  
12 something if I could.

13 THE CHAIRPERSON: Is it pertinent to what's --

14 REP. GUERRERO: Yes.

15 THE CHAIRPERSON: All right, Mr. Guerrero.

16 REP. GUERRERO: I'd like to at this point, make this  
17 known of the administration, if my line of questions has  
18 been severe, in your opinion, it's only due to the fact that  
19 whenever there's inmates, I always put myself in their shoes  
20 because I always feel that there, but for the grace of God,  
21 go I.

22 Whenever I'm in the legislature trying to push for  
23 legislation for personnel for your department I do the same  
24 thing, so I hope you'll understand that, Mr. Moran, and the  
25 administration.

1 MR. MORAN: Yes, I do.

2 In that connection, in our budget proposal for next  
3 year for the prison, we've asked for 24 professional staff  
4 positions, two special academic teachers, two special educa-  
5 tion teachers, an arts and crafts head, four counselors, high  
6 quality counselors, two psychologists, a psychiatric social  
7 worker, and a mental health technician, a lab technician,  
8 a medical records clerk and the necessary supportive clerical  
9 services.

10 We would appreciate your help in that regard, very  
11 much.

12 THE CHAIRPERSON: Thank you, Mr. Moran.

13 Mr. Cardwell?

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16

HAROLD J. CARDWELL

17

18 A. (By Mr. Cardwell.) Madame Chairman, my voice hasn't  
19 improved, and I won't apologize for it again, I would like  
20 to apologize for the fact that I didn't shave before appear-  
21 ing at this time. I haven't had time.

22

23 I've listened very intently today, I agree with what  
24 my boss says here, it has been a learning process for me.  
25 Some of the testimony that was given by my staff might have  
seemed controversial, maybe it's because we haven't been in

1 business long enough, for example, whether you can go through  
2 the chow line twice.

3 The visiting rules we have rewritten them, but we  
4 can't put them into effect until we have the proper facilities.  
5 I'm very proud of the staff that we've developed at this  
6 point and I think their testimony here today showed their  
7 sincerity.

8 I would only close by saying that we're not exactly  
9 proud of everything that Arizona Prison, at Arizona Prison,  
10 but we're not ashamed of anything.

11 Thank you.

12 THE CHAIRPERSON: Thank you, Mr. Cardwell.

13 Mr. Levis?

14 Q (By Mr. Levis.) Mr. Moran, a few things came up that  
15 maybe you could answer now or can respond to in writing,  
16 one issue was the fact that Mr. Kidwell stated he had to  
17 pay for his own wheelchair and I think Mr. Muskrat said at  
18 that time --

19 A (By Mr. Moran.) I knew that would come up tonight  
20 and I tried to get the answers and the whole situation is  
21 so confused I really couldn't get straight answers to  
22 my satisfaction, I don't know what the story is.

23 As I understand it he has, I saw him with a sales slip  
24 or whatever, we have a sales slip. So, it's very confused,  
25 and one story I got was that yes, he did pay in part for a

1 wheelchair when he left an outside hospital. To come into  
2 the institution. I just don't know the details, I'm not  
3 really able to give you a straight answer now, I'll look  
4 into it and try to straighten it out.

5 Q Okay.

6 The other question I think that Ms. McCullah raised  
7 was the use of Peyote at --

8 A Yes, we would not permit that, that's a straightfor-  
9 ward answer as inappropriate as it may appear.

10 We would not permit that in the institution.

11 Q Even if it were permitted by law to the general  
12 public or even if it is?

13 A Well, there are lots of things permitted by law to  
14 the general public such as Budweiser, that we don't permit  
15 into the prison.

16 Q I think the question regards religious practices.

17 A We're not at all wanting to interfere with legitimate  
18 religious practices but I think common sense at least  
19 tells me that that's in the drug category and we could not  
20 permit it in the institution.

21 MR. LEVIS: I have no more questions of Mr. Moran.

22 THE CHAIRPERSON: Do any other Committee members  
23 have questions of Mr. Moran?

24 Mr. Guerrero?

25 Q (By Rep. Guerrero.) Yes. Mr. Moran, I came across a

1     disparity, do you feel this is disparity when you have the  
2     percentages of these persons participating in these voca-  
3     tional programs, is there any thought in your mind to maybe  
4     try to make it more equitable to all the ethnics?

5     A.     I would not at all get into any kind of a quota  
6     system which would require us on a detailed percentage  
7     basis to place individual human beings in this program or  
8     not to place them in it. I think that honest individual de-  
9     cisions without regard to race or anything else in that  
10    area are made.

11           And if the figures vary, I'm sure they do vary, but  
12    I think when you shake it all down you won't see the large,  
13    a large inconsistency as you might if you take one day, so  
14    we would not at all get into any court of quota systems

15    Q.     Mr. Moran, maybe you're aware of the fact that the  
16    State of Arizona is presently trying to bring more ethnic  
17    minorities into the personnel for the state as far as  
18    employees go?

19    A.     Yes, sir.

20    Q.     And this is a way of reaching certain, the same setup.

21    A.     Well, we actively pursue minority applicants, yes.  
22    For positions in the department.

23    Q.     But you wouldn't consider breaking this down a little  
24    bit more, percentagewise, as to your population and your  
25    vocational education programs?



1 A. No, sir, I would not.

2 THE CHAIRPERSON: Mr. Moran, excuse me just a moment,  
3 we do have all of those figures, sir, they have been intro-  
4 duced and they are figures as of January, 1974, on  
5 all the racial breakdowns, not only of the inmates, the  
6 IER area, the OT area, all the vocational programs, all  
7 of the academic programs.

8 Q (By Rep. Guerrero.) Yes, but seeing as he's the  
9 department director, I thought maybe he may have some in-  
10 fluence or give his opinion as to whether he feels this is  
11 adequate or not.

12 A. I think a fair honest job of selection and placement  
13 is being done without regard to race or ethnic group.

14 On a given day it may be out of balance, but if you  
15 shake it all down over a period of time, I don't think that  
16 will be the case at all.

17 We're dealing with individual people in terms of  
18 their own abilities, their own interests, their own degree  
19 of motivation and so on, irrespective of race, and that's  
20 the basis for our judgment.

21 There are a 100 things that go into a decision, that's  
22 probably the only one that doesn't.

23 Q I won't debate the point.

24 DR. GLASS: Madame Chairman, I would like to make one  
25 remark, this is the last one I'm going to make.

1 THE CHAIRPERSON: Is that a promise, Dr. Glass?

2 Q (By Dr. Glass.) Directed at Warden Cardwell.

3 We've heard a lot about progressive changes in the  
4 prison and we know that many things have happened. In  
5 your opinion, two questions, one, do you -- are you inclined  
6 to want to go along with these programs? I'd like to hear  
7 your expression of feeling about this.

8 A (By Mrs. Cardwell.) What programs, Doctor?

9 Q Well, I mean the planned programs for the future,  
10 progressive programs in education, vocational and all this?

11 A I consider myself a liberal conservative.

12 Yes, I'm for programs, but I think they have to be  
13 thought out, started with the right amount of planning, and  
14 with the right amount of thought that we get the right  
15 people in them, and what the consequences are.

16 I think too many times in corrections that people  
17 tend to jump into things before really thinking them out  
18 and as a result they fail. But I consider myself pro-  
19 gressive and I certainly go along with Mr. Moran's program  
20 or I wouldn't be here.

21 Q Good.

22 The second question -- it's getting too damned late,  
23 I can't remember it. That's all.

24 A Could I add something quickly?

25 You got to judge each institution separately in terms

1 of where it is right now. What it's recent history is.  
2 We're at a certain stage of development now that began on  
3 June 23, 1973.

4 THE CHAIRPERSON: Mr. Muskrat, I believe had a  
5 question.

6 Q (By Mr. Muskrat.) Mr. Moran, if you'll recall at  
7 yesterday's session we were discussing the disparity be-  
8 tween the ethnic breakdowns in the prison and the people  
9 recommended to go to the Halfway House and the people that  
10 finally wound up there.

11 With your permission, Madame Chairman, we would like  
12 to write Mr. Moran and we'll look at the information that  
13 we have, any information that we do not have we will  
14 write him and ask him if he would furnish to us together with  
15 a written statement as -- as to the cause of the disparity.

16 In addition, we'll get together with Representative  
17 Guerrero and again review the record and if there's any  
18 information that we need to supplement the record, we will  
19 ask Mr. Moran for that as well as his explanations.

20 And finally, may I state on behalf of myself and  
21 staff and the State Advisory Committee our appreciation for  
22 the cooperation that we have received from Mr. Moran,  
23 Mr. Cardwell, and their staff.

24 Thank you very much, Gentlemen, you were very fine  
25 to us and very cooperative and we appreciate it.

1 THE CHAIRPERSON: Thank you very much.

2 As the Committee knows, we have asked four gentlemen  
3 to come tonight, now four hours after they were scheduled  
4 to appear. And give us a criticism.

5 They are not all present tonight, two have stated  
6 they will reply to us in writing, three. Of the three  
7 gentlemen who are here, Mr. Hal Delhaye, Mr. Flint Anderson  
8 and Mr. W. Edward Morgan, I would ask that they come for-  
9 ward, please.

10 These gentlemen have graciously consented to limiting  
11 their remarks to ten minutes between the three of us.

12 Not only are these gentlemen going to give us  
13 their comments this evening, verbally, but they also will  
14 be submitting other critiques in writing. I understand.

15 Mr. Delhaye, we'll be glad to start with you.

16 Again, state your name for the record? ?

17 MR. DELHAYE: Hal Delhaye.

18 THE CHAIRPERSON: Go ahead and give your statement.

19

20

21

HAL DELHAYE

22

23 A (By Mr. Delhaye.) The group kind of decided that we  
24 were going to do it in a certain kind of order, since we  
25 were limited in time, so Flint Anderson will be first.

1 THE CHAIRPERSON: Fine, Flint, state your name, for  
2 the record, please.

3  
4  
5 FLINT ANDERSON

6  
7 A. (By Mr. Anderson.) Flint Anderson.

8 For the sake of expediency, we decided we would  
9 compare notes and make sure we didn't duplicate each other.

10 I will submit in writing the substance of my comments  
11 on the baseline. And of my copious notes on the last two  
12 days, the ones that I can still see, I will -- would like  
13 to refer to several areas that using the baseline as a guide,  
14 areas that are still of a concern to me in terms of where this  
15 inquiry is at this point and hopefully where it will  
16 still go and before I do that, clarify one point, I'm not  
17 sure Mr. Zah understood a comment that I made yesterday  
18 and I think it still stands in the record, at least I've  
19 stated it as I thought I did.

20 We do not in fact have 30 lawyers in the hand, I wish to  
21 hell we did. We tried to create a panel of lawyers who  
22 would be responsive to the specific and unique problems of  
23 the incarcerated post-conviction remedies. Found out that  
24 through geographical problems, etcetera, that it's virtually  
25 impossible, monetary problems etcetera. One of the great

1 deficiencies and geography plays a big role in that in  
2 Arizona, is that it is impossible, virtually impossible on  
3 any regular basis to guarantee that every incarcerated  
4 individual has equal access to post-conviction remedies.

5 And I think the law profession is to be taken to task  
6 on this, perhaps there are remedies that the state could  
7 provide, but I want to point to the remaining, that we are  
8 far from providing the kinds of services that I wish I  
9 could say we were in a position to provide.

10 We're still working on it.

11 To select only a couple of areas that have been  
12 mentioned in testimony that I quite frankly feel were not  
13 followed up enough, in being able to provide the baseline  
14 with substance around the issues that have been raised.

15 Part of the problem is dealing with a mixed media  
16 we have public hearings, but much can still be submitted  
17 in writing, and this may be the reason for some of the gaps  
18 that are left which I don't think should be left.

19 I think it's unfortunate that they're left in a public  
20 forum context.

21 One of those areas that has been dealt with a little  
22 bit more today is the whole problem of alleged or actual  
23 racial ethnic discrimination. I wish more time could have  
24 been given to discussing staff training in more detail.  
25 Staff recruitment, ethnic recruitment, I wish in the context

1 of the public forum we could have discussed more thoroughly  
2 the kinds of problems involved with placement, related to  
3 ethnic, the problem of placement in general.

4 Recognizing that ethnic racial discrimination tends  
5 to be a subtle phenomenon. And I don't think is easily  
6 attached by focusing on some of the issues that we have  
7 excluded the discussion to in these hearings.

8 I'm concerned and would hope that the Civil Rights  
9 Commission will at least follow up on the whole area of  
10 contract employment of inmates. I would be particularly  
11 concerned, for instance, about legal questions involved  
12 with -- one more minute -- Graham County, what's involved,  
13 what are the contractual issues involved with inmate labor,  
14 municipal government, state governments, federal funds,  
15 involved, beyond the question at issue of what kind of  
16 payment to inmate populations can in fact be called reha-  
17 bilitative.

18 Idea, equal payment, inmates paying rent. Psychiatric  
19 care has been mentioned by Mr. Moran, and others, I would  
20 hope that the Civil Rights Commission would expand its  
21 inquiry to the maximum security ward of the state hospital.

22 It should be a part of this inquiry. And there are  
23 some deficiencies that the state hospital must respond to  
24 and has responsibilities for.

25 The final issue in broad terms, a huge problem in any

1 total confined, single section, institution, is homosexuality.  
2 It has not been discussed directly, covertly, I think a  
3 number of issues that have been referred to, it's been  
4 skirted around, it's a profound problem from a security point  
5 of view, but there are also human problems involved, a kind  
6 of sexual isolation, unisex society. What happens to the  
7 quality of family life, etcetera.

8 Specific criticisms that I have, or comments on the  
9 details of the guideline or the baseline I will provide  
10 in writing.

11 THE CHAIRPERSON: Thank you very much, Mr. Anderson.  
12 Mr. Delhaye?

13 Again, state your name, please?

14 A. (By Mr. Delhaye.) My name is Hal Delhaye, Pima  
15 College Exoffender program, Tucson, Arizona.

16 I guess first I'd like to give some recognition to  
17 Mr. Goff for a beautiful document that gave us an excellent  
18 springboard for lots of ideas, especially concerning today's  
19 covering more than I feel than yesterday's.

20 I guess I'd like to cover some of the things that  
21 I feel that wasn't really said, I'm not going to get into  
22 it, I'm just going to mention in a kind of a headline kind  
23 of a situation and that's, I'll name them.

24 Like youth offenders, I think they need to start  
25 looking at the age of inmates going to the maximum security



1 prison with hardcore inmates.

2 I'd like to hear us talk more about a YC, which is  
3 the Arizona Youth Center, I'd like to see some attention  
4 focused in that direction. We completely avoided and I know  
5 it's not within the purview of this Committee, but we  
6 completely avoided, and the reason I state it is because  
7 it's very important in the rehabilitative process and that's  
8 the parole board.

9 I'm not sure what the role of this Committee is with  
10 parole boards, but there are some problems in this area.

11 One thing that we -- one word I didn't hear, I don't  
12 think, throughout the hearings of yesterday and today,  
13 and correct me if I'm wrong, are -- I wasn't tuning in,  
14 but I think probably the primary thing I want to see happen  
15 out of these hearings is somehow or another, through the  
16 spirit of it all, that the end result is the inmate coming  
17 up with some dignity, and I think we've avoided that, and  
18 there's a lot of ways that that can come about.

19 You talk about the way a guard talks to an inmate,  
20 you can talk about the way a food tray is served, all, you  
21 know, strip searches, the hassles a person has to go through  
22 to get a writ of habeus corpus out without mail, all these  
23 little small inconsequential, to some people, things, which  
24 add up to what I think makes a degrading experience for  
25 inmates.

1 Another area that we haven't talked about and that  
2 was something that was in Mr. Moran's big blue book on the  
3 department of corrections, and were the new prisons  
4 anticipated in Phoenix and in Tucson. I think that's an  
5 excellent opportunity for some moneys being poured into  
6 community and I'd certainly like to see some more kinds of  
7 things made public as to what you anticipate those institu-  
8 tions to be. What role they will have with the community  
9 and especially the educational community, academic and that  
10 kind of thing.

11 The use of those resources. I'd like to get off into  
12 a very short, another area that I've got some concerns  
13 about, being an excon., my heart really reached out for the  
14 guys that were trying to testify today.

15 And I was involved in an investigation with the state  
16 prisons in Louisiana, and I'm very aware of the kinds of  
17 intimidations, the kinds of both from the staff, and the  
18 guard and from the inmates themselves, because of the di-  
19 verse, you know, political thinking, the diverse philosophical  
20 thought and I'd certainly like to see a clear message from  
21 this Committee to the department of corrections. To the  
22 public and to anyone else concerned, that no retributions or  
23 no intimidation for their having come forth is in the making.

24 I'm not implying anything, I just, it's something I'm  
25 really concerned about.

1 I guess let me go ahead and circle this around and  
2 end it up in saying that I feel that the hearings spun off  
3 into a better, more positive frame, and my one concern is how  
4 do we implement all the things we've talked about?

5 How do we, you know, get this to happen? Within a  
6 reasonable length of time? And I guess I'm looking at a  
7 couple suggestions I'd like to have entered into the  
8 record so far as how that can happen.

9 One of them being public education, you know, where  
10 the public will demand, which will be supported by Mr.  
11 Moran's proposals. I think the spirit of the department of  
12 corrections has made a 100% about face, and I think that  
13 needs to continue and I'd like to see it continue all the  
14 way from the top echelon all the way to the line officer  
15 and I think there's another tool that we can look at and  
16 that's some federal moneys\*coming in here that will give  
17 incentive for these kinds of things to happen.

18 Thank you for inviting me over to these hearings.

19 THE CHAIRPERSON: Thank you, Mr. Delhaye?

20 Mr. Morgan?

21  
22  
23 W. EDWARD MORGAN

24  
25 A. (By Mr. Morgan.) Edward Morgan, Tucson, Arizona, I'm

1 not prepared to give a critique of the hearings because I  
2 haven't been here, nor was it suggested that that was our  
3 function.

4 I'll file a written statement within 30 days.

5 I would pass just one general comment on the base-  
6 lines, what I found throughout, was that there was a  
7 failure to institutionalize and set up a program of inmate  
8 input into the decisions that affect both the inmate as an  
9 individual and as his corporate or their corporate relation-  
10 ship to the institutions.

11 I find none in here other than possibly an advisory  
12 council which is pretty loose.

13 Second thing is that there's been no attempt to  
14 set some guidelines or definitional statements of clear,  
15 you constantly get the same word, clear danger or something  
16 of that order, which is used for the guidelines for  
17 limitation on activity by the administration.

18 Clear and present danger was an old legal concept and  
19 it isn't very good, and I think work has to be done to make  
20 up a definition with at least some elements that could be  
21 understood.

22 I did find in the hearings that I heard tonight, I  
23 think, a continuing downgrading of women in a way which was  
24 a bad, bad scene to me. And just as someone sitting in the  
25 audience, listening to it, I wish to advise my complaint.

1 I think they were put down in so many different ways,  
2 lawyers trying to speak more adequately for women than the  
3 women were able to speak for themselves, people talking  
4 about women and limitations on occupational possibilities,  
5 I was very much surprised that the women on the panel  
6 didn't take a more affirmative response to what I con-  
7 sidered very large display by nearly all the witnesses  
8 and all the relationships to very overt male chauvinism.

9 I will file a statement with you within 30 days,  
10 and thank you for the opportunity to be here.

11 THE CHAIRPERSON: Thank you, Mr. Morgan.

12 Are there any closing statements that any of the  
13 Committee members would like to make at this time?

14 If not --

15 DR. GLASS: Madame Chairman, I'd like to say, reiterate  
16 what Joe Muskrat said about the cooperation, I've had really  
17 wonderful cooperation from the department, and what visits  
18 I've made to different institutions and I, too, would like  
19 to acknowledge my appreciation to Mr. Moran and his staff  
20 for permitting me to enter these institutions as a dentist  
21 and look into these matters.

22 Thank you.

23 THE CHAIRPERSON: Thank you.

24 Ladies and Gentlemen, I think that we have just about  
25 concluded these two days of public hearings on the State

1 Adult Correctional System in Arizona.

2 I think I would be very remiss if I didn't say that  
3 to me as a member of the Committee and sitting as Chairman  
4 today, that in my estimation this is just the beginning.

5 We have now heard the testimony of both inmates and  
6 staff, and various groups connected with the penal system  
7 in this state, and in my mind there are probably more  
8 questions now than I had when I walked in the room yes-  
9 terday morning.

10 I think that most of the Committee members feel the  
11 same way.

12 We will now proceed to write a report based on all  
13 of the material that we have before us, the material that  
14 is yet to come, and I would imagine that that will be the  
15 hardest part.

16 I would again reiterate that anyone in the room who  
17 wishes to have any more testimony put into the record, they  
18 can have this in writing submitted within 30 days.

19 Again I would like to thank all of those who par-  
20 ticipated.

21 The meeting is adjourned.

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23 (Hearings adjourned at 12:20 a.m.)  
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STATE OF ARIZONA )  
                          ) SS  
COUNTY OF PIMA )

I, JAMES E. BOULEY, do hereby certify that I am an Official Shorthand Reporter; that I was present at the hearing of the foregoing matter; that I took down in shorthand all proceedings had and testimony adduced at said hearing; that the same was thereafter transcribed under my supervision, and the foregoing 931 pages represent a complete and accurate transcription of my shorthand notes so taken.

WITNESS my hand this 2nd day of April, 1974.

*James E. Bouley*  
Official Shorthand Reporter