

The Drive for Inmates' Rights

Seventh of Eight Articles

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"It used to be that the favorite recreational activity of prisoners was playing baseball. Now it's filing lawsuits," says Evelle J. Younger, attorney general of California.

Is there a new kind of person behind bars in the 1970s? More interested in politics than athletics? More militant, organized and rebellious?

Younger is right about the growth of lawsuits. There is a swelling tide of civil petitions flowing out of prison cells into courtrooms. These are not the traditional jailhouse appeals on criminal cases, which continue. The new phenomenon is civil petitions suing prison administrators for allegedly violating human and civil rights.

In 1938, federal courts received only 825 such petitions from prisoners, less than 2 per cent of all federal civil suits that year.

Last year there were 12,266. By now, one of every six civil suits in a federal district court is from an American prisoner claiming that his treatment inside a penal institution is illegal.

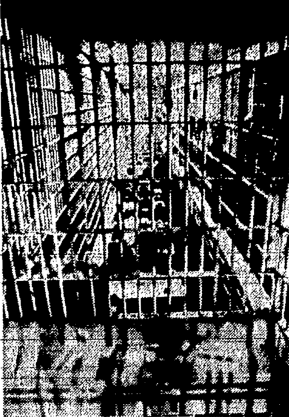
Evelle Younger is wrong about this being "recreational activity." Prisoners are dead serious:

Judges have been just as serious. Judges all over the country, horrified when they see conditions to which they have condemned defendants, are dropping their traditional "hands off" policy toward prisons and are taking responsibility for the nature of the punishment they order.

This is forcing the freshest air into the American prison since its invention in 1790.

Judges have called some prisons unconstitutional — for example, Holmesburg, Pa., and the entire Ark-

The Shame of the Prisons



ansas state system. In Florida, West Virginia, Virginia, Illinois, California and Maryland, judges have declared particular prisons unconstitutional, usually for cruel and unusual punishment — or administering serious punishment without due process:

Robert N. C. Nix Jr., presiding judge in the Holmesburg, Pa., case said, "Prisons aren't supposed to be torture chambers. The separation from society is supposed to be enough.

Judge Israel Augustine of New Orleans District Court said that unless the local jails ceased being "medieval and archaic" he would resign rather than send prisoners to them.

There is reason to think that American prisons are no worse today than they used to be. Except for overcrowding, they probably are bet-

ter. But increasingly inhumane conditions are no longer being tolerated, for reasons including a change in the attitudes of prisoners and of society:

1. Nonwhites in America — blacks, Mexican-Americans, Puerto Ricans, Indians — are 12.5 per cent of the total population, but they are from 40 per cent to 50 per cent of all persons in prisons. The entire criminal justice system — police, prosecution, judges, jails and prisons — is largely white-run. Ninety-five per cent of prison guards are white. Nonwhites are rebelling against their depressed status in the outside world.

2. Many impoverished white prisoners, though unsupported by organized ethnic lobbies, are newly activated by the realization that prisons are essentially places for punishment of the poor. Though there is severe tension between black and white inmates, and though many prisons do not discourage this enmity since it helps the staff maintain control over a divided population, when it comes to protest against the institution there is usually racial unity.

3. During this period of heightened sense of injustice in the criminal justice system, penalties have become harsher, increasing bitterness behind the walls.

4. Though the vast majority of prisoners is poor, there is a new, small insertion of affluent middle-class prisoners from cases involving drugs, the draft and civil protest, and this has mobilized much of the previously uninterested middle class to examine their prisons.

5. A new cadre of prison administrators is sufficiently sophisticated in sociology, psychology and statistics to be sensitive to the self-defeat-

See PRISONS, A6, Col. 1

