

Hole Time

## Introduction:

Here's how to acquire complimentary office supplies in a private prison. If a non-indigent inmate wants something in a for-profit facility, he usually needs to purchase it for himself from the commissary list or an outside vendor. I recently discovered that all an inmate needs to do to get free paper and envelopes is to go <sup>to</sup> the hole for a week.

At 1:55 PM on Friday, October 11, 2019, the unit manager of the M-Building entered the inmate law library, located in the Multi-Purpose Room. She declared, "You only have permission to be here in the mornings!" I replied, "Pardon me, but there appears to be adequate space available for me to use the law library this afternoon as well." She pronounced an emphatic "OK!" Then she turned on her heel and exited the Multi-Purpose Room. She never instructed me to return to the MB Living Unit at that time.

At 2:15 PM, I ran into <sup>w</sup>to male lieutenants in the M-Building rotunda. I asked them, "Are you looking for me?" One of them answered <sup>w</sup> with a rhetorical question, "Well, are you the bad guy?" I commented that the answer to that question is obvious, because I am clearly a convicted criminal. The other lieutenant requested that I leave the law library and return to my living unit. I obeyed his direct order by packing up my legal documents and going back to my cell in the MB unit.

When I entered the relative safety of my cell, I assumed that my interaction with the officers had finished. The lieutenants had admitted that it was not worth dragging me over something so trivial as an alleged initial refusal to leave the law library. However, the unit manager declared, "Inmate 79751 has disobeyed a direct order, and for that he will go to the hole!"

I observed a case worker leading the two lieutenants into the day room. She asked me, "Where is your cell mate?" At that point, I realized that I was actually getting dragged after all. I apologized to my bunkie for asking him to pack up my personal property in my absence. I quickly returned a book about human body language that I had borrowed from a classmate in my Relapse- Drug and Alcohol Prevention (R-DAP) class. I heard another inmate on the top tier clap as I was escorted out of the unit in handcuffs. I flipped him ~~to~~<sup>the</sup> bird from behind my back, but I doubt he even saw it.

As we left the day room, I declared to the two lieutenants, "I am not resisting!" They escorted me through the rotunda, past the Multi-Purpose Room, around the metal detector and outside into Yard 2. As we skirted the small recreation yard, I joked that I could probably get away from Lt. T, but Lt. H would definitely catch me, because he is younger than I am. I observed my R-DAP instructor, Señor V, coming out of the main building. I said in broken Spanish, "Yo estoy en 'el box' lunes, martes, miercoles, y jueves la semana avanca." I was attempting to communicate to him that I did not expect to attend

class during the following week. I could tell from his body language that ~~that~~ <sup>^</sup>Señor V was disappointed in me even though he said nothing in either Spanish or English.

As I entered the main building with the two lieutenants, I confided, "I have always been curious about the hole in this facility." Lt. T retorted, "Curiosity killed the cat!" After an uneventful visit to the medical office in the main corridor, I announced, "I am conducting a fact-finding mission to the H-Unit." Lt. H quipped, "What will you do if nobody agrees to give you the facts?" I concluded, "My own personal experience will be much more instructive than anything anybody could possibly tell me."

We made our way around a corner and through a sliding metal gate. I was entering a part of the main building that I had not seen before. Near the end of a long hallway, I noticed one door labeled H-19, 21, 23. We went through a doorway marked H-16, 18, 20 directly across from it. I noted that there are six separated pods in the H-Unit.

Around here, they call it "seg," which is an abbreviation for "disciplinary segregation." The second word of this phrase reminds me of the racial segregation that was imposed under the state-sponsored system of apartheid in South Africa during the twentieth century and for many years in our own country. Since most of the employees in Mississippi prisons are black, and the majority of <sup>Vermont</sup> inmates are white, I prefer the terms "box" or "hole" rather than "seg."

As we entered a narrow corridor with a high ceiling, I caught a glimpse of an inmate named JC through a plexi-glass window. A year prior, we had been shipped to the Tallahatchie County Correctional Facility (TCCF) on the same bus from Vermont. JC was living in the H-16 pod, a.k.a. Protective Custody (PC). Half a dozen Vermont inmates had chosen to "check in" to the PC unit, because they did not feel safe living in the General Population (GP) for various reasons. JC seemed surprised to see me. I could not hear him, but I read his lips, "What the hell are you doing down here?"

I was assigned to Cell 106 in the H-18 pod, which serves as the disciplinary segregation unit for inmates from Vermont, Wyoming, and South Carolina. TCCF currently contracts to five separate governmental entities and hosts six different inmate programs. The Vermont inmates wear red and white horizontally striped uniforms. The other inmate populations are dressed as follows: Wyoming- charcoal gray, South Carolina- canary yellow, Tallahatchie County Jail- blaze orange, United States Marshall's Service- light blue, and the ICE men from the Federal Immigration and Customs Enforcement Agency wear dark green uniforms. Vermont inmates are allowed to mix only with the other state inmates from Wyoming and South Carolina.

There are two dozen double-bunk cells on two tiers in the small H-18 pod. About half the cells were occupied by a single occupant when I first arrived. The day room contains eight tightly-spaced square metal tables and two slightly higher round plastic tables with checker boards printed on their tops.

There is a row of six shower cages along the diagonal wall to the left of the entrance door and a face clock on the short wall near the door. A large flat-screen television is perched on a metal shelf above a kitchen sink, and a microwave oven sits on the top of a kitchen counter along the right diagonal wall.

Once I had been locked into my single cell, I noticed a variety of correctional officers (cops) performing safety checks on each inmate roughly every fifteen minutes. There were clipboards attached to the door of each occupied cell. The cops wrote comments such as "Sitting, Standing, or Lying Down" on the paper record attached to my clipboard. I was usually standing up at first.

#### Life in the Box:

Disciplinary segregation in this facility is actually quite rigorous compared to "administrative segregation" in Vermont. I was locked into my single cell for 22 to 23 hours a day here, whereas we had at least five hours outside the cells in Vermont ad-seg.

During my stint in the box, I reminded myself repeatedly, "You will have to this stretch of time completely on your own." I told myself, "You knew what you were getting into when you talked back to the unit manager in the law library." I cajoled, "You have downtime in the box in Vermont before, and you can definitely do it again here." I concluded, "You have the tools to solve this problem."

Before I was allowed to exit my cell, I was required to be handcuffed behind my back. I placed my hands through a rectangular portal, similar to a letter slot, to give a cop access to my wrists before he/she opened my cell door. I commented to a male cop that I had not yet been convicted of any offense, but I was being treated as if I were already guilty. He responded, "Have you ever been to County (Jail)?" I explained that Vermont no longer administers county jails.

Outdoor recreation is held for one hour on weekday mornings in a dozen separate metal cages under a corrugated tin roof just outside the exit at the end of the long hallway. I heard other inmates referring to this recreation area as the "dog kennel." Showers are available after recreation on Monday, Wednesday, and Friday mornings. Each shower stall is completely enclosed in expanded metal mesh with a padlock on the front. A segregated inmate is physically locked into the shower stall while he is taking a shower. He has to wait for a cop to re-cuff him and unlock the gate before he is allowed to return to his cell. I took only two showers during the whole week that I spent in the hole. Segregated inmates are not allowed access to the day room.

Meals are delivered on reusable plastic trays through the cell door portal three times a day at regular intervals. I ate alone, seated at the small table attached to the wall. Microwave access is virtually non-existent for most inmates. I was allowed to heat up water for a soup once. I received a special delivery of a medium veggie pizza and one dozen oatmeal cookies that I had ordered from outside vendors on the second night that I spent ~~in~~

in the hole. Any trash that inmates generate from food wrappers and waste paper, etc., is slid under the cell door into the day room and collected by the pod porters. Laundry is collected and returned clean <sup>on</sup> weekdays following the facility-wide schedule.

Even though hole time can be described as "solitary confinement," it is quite social in my experience. Inmates in disciplinary segregation and protective custody have recreation periods together. I met three inmates from Wyoming and reconnected with three of my colleagues from Vermont while we were standing in contiguous recreation cages. Inmates regularly pass small items to each other through the fences or across the central sidewalk. I did not participate in the distribution of contraband items, but I contributed four mini Three Musketeers candy bars and one written address for the Vermont Parole Board, for the general good of the order. I don't know who exactly received these items in the end, because inmates tend to pass them around to each other.

During my time in the box, there were two inmates from South Carolina who worked as pod porters in the H-18 pod. Duke is a tall black guy with a loud voice and Tattoo is a short white guy whose skin is covered with ink. Duke had been living in the box since early April, 2019. He only had seven months remaining until his expected release from prison. I told him that my maximum release date of May 30, 2020 must be very close to his expected release date.

Duke informed me that my next door neighbor, JB is originally from <sup>Castleton,</sup> Vermont. It turned out that I had worked with

JB's cousin on a mowing crew for a landscaping outfit based in Rutland, Vermont during the summer of 2013. I passed JB some cookies and a small candy bar through Duke. I paid Duke one soup, which is really a package of ramen noodles <sup>still</sup> containing the original flavor pack, such as Texas Beef. In prison, soup is the coin of the realm, and instant coffee is the currency. A soup is equivalent to fifty cents, even though prices on canteen lists vary by facility. A three-ounce bag of coffee trades for five dollars and an eight-ounce bag of coffee fetches twelve dollars on the "closed" market. I only buy coffee for trading purposes.

My other next door neighbor, from Wyoming, popped the fire sprinkler in his cell during my last night in the box. Water flowed through the gap under my cell door and soaked a manila envelope that I had left unattended on the floor. Duke passed me a large squeegee attached to a broom handle through the portal in my cell door. I used the squeegee to push two inches of water that had been covering my floor out into the day room. I mopped up the remainder with a ~~dirty~~ <sup>dry</sup> towel. Duke and Tattoo pushed the water in the day room into the floor drains in front of the shower stalls. It was a shared effort that contributed to a sense of community.

The telephone situation in H-18 is much different than in the main units. Both M-units offer inmates a bank of four stationery phones, intended for making outgoing calls, on the edge of each day room. In H-18, there is a single phone mounted on a roving dolly that is moved from cell to cell as needed. Inmates living in disciplinary segregation can reach through the

portals in the lower half of their cell doors and attempt to make phone calls while squatting on the cell floor. I tried to call my father on the Sunday afternoon that I spent in the box. It turned out that I only had enough money for one minute remaining on my phone account, and I could not get through anyway. It is impossible to leave a message on an answering machine or a voice mailbox from a prison telephone. I chose not to try calling my dad again while I was still living in the box, because the whole process of making a phone call is both intentionally inconvenient and uncomfortable.

Besides occasional socialization and the requisite Activities of Daily Living (ADLs), most of my time in the box was spent in quiet contemplation. I finished reading the October issue of The Sun literary magazine and the Summer 2019 issue of the Prisoner Express (PE) newsletter from Cornell University. I started reading a small paperback book entitled, What is Karma? by Paul Brunton.

I wrote a letter to my regular correspondent who lives in Brooklyn, New York. I wrote another letter to a new female pen pal whom I had met through PE. I happily received a nice note card from my Brooklyn buddy on my second to last day in the box. It was very important to be reminded that I had not been totally forgotten by people on the outside while I was still living in the hole.

I was not allowed access to my personal television or my hobby craft tools and materials during my time in the hole. Instead, I organized my legal documents and caught up on

digesting case law. I skimmed two United States Supreme Court decisions; I read one Vermont District federal circuit court decision and one Vermont Supreme Court appeal. I personally know the appellant in the latter case. In general, I am more interested in Vermont state case law than federal case law, because it is more relevant to my own cases.

Most importantly, I completed my Relapse Prevention workbook. I worked on the last nine pages during the same time period (1:00 PM - 2:30 PM) that I would have been attending the R-DAP class in the P-Education Building. I missed the physical proximity of my fellow classmates, but I still felt camaraderie with them. I also did one page in my Spanish Verb Workbook and reviewed my Spanish vocabulary list. I am trying to impress Señor V by attempting to learn his native language. He eventually presented me with a Certificate of Participation rather than Completion, because I had missed the final week of R-DAP class. I completed his subsequent class in Cognitive Behavior called "Traffic."

In addition to intellectual and spiritual activities, I exercised physically while I was living in the box. On the first day, I put myself on a push-up regimen that involved adding an additional set of twenty repetitions each successive day. I started out with twenty push-ups on the first Friday, and I ended up with 120 push-ups on the last Wednesday. I took a rest day on the following Thursday, but I could not sit still. I bounced around my cell instead. I was very anxious in anticipation of my scheduled disciplinary hearing.

My Legal Defense:

On the previous Friday afternoon, I had received a State of Vermont Department of Corrections (DOC) Notice of Hearing Form that had been completed by a local staff member. It stated that I had been charged with a major violation of Rule B18, and my disciplinary hearing would be held at a time "TO BE ANNOUNCED" on Thursday, October 17, 2019.

According to the Vermont DOC Directive #410.01- Facility Rules and Inmate discipline, a major B18 violation consists of "Interfering with an officer in the performance of duties or any disobedience or refusal of an officer's instruction or order that threatens or disrupts institutional security or interferes with the taking of an official institutional headcount." The sanctioned penalty for a major B18 conviction is 0-7 days in disciplinary segregation.

Although I <sup>had</sup> received a Notice of Hearing, I never received an Incident Report or a Disciplinary Report (DR), which would both have been par for the course in Vermont facilities. I was just glad that I had been charged under Vermont DOC disciplinary policy, of which I am very familiar. During the six days that I spent in the box, I actively prepared my defense. I wrote a defendant's affidavit, made four copies by hand, and prepared a proposal for the resolution of my charge.

My main defenses, assuming prima facie evidence in the best light of the prosecution, were three-fold:

1. According to Vermont DOC Policy, a Unit Manager (U/M), who occupies a position that would be equivalent to a

Living Unit Supervisor (LUS) in Vermont, is not considered an "officer." Therefore, I could not have possibly interfered with an officer in the performance of duties when I allegedly disobeyed the unit manager.

2. My alleged disobedience or refusal of an officer's instruction did not threaten or disrupt institutional security.

3. My alleged disobedience or refusal of an officer's instruction did not interfere with the taking of an official headcount.

My resolution proposed amending the original B18 charge to a minor 04 violation, which consists of "Refusing to obey the order of a staff member other than described in the Major Disciplinary category." Even if I had been convicted of a minor DR after spending six days in the box, the local prison officials would have been in direct violation of Vermont DOC policy.

According to Directive 410.01, Section 7. Sanctions, sub-section d. Disciplinary Segregation, item v. (page 13), "Disciplinary segregation may not be imposed as a sanction for a minor violation." Furthermore, in the same sub-section, item i. states, "Disciplinary segregation may only be imposed for specific Major A and Major B violations." According to the Definitions section of Directive 410.01 (page 4), "Placement in disciplinary segregation may occur only after finding of a rule violation at an impartial hearing." In Vermont, inmates are housed in "administrative segregation" while awaiting a hearing.

As it happened, I was never afforded a disciplinary hearing

for this alleged major B18 violation. The official explanation I was given was that "Your due process has been waived!" There is a distinct possibility that there was a total lack of evidence in favor of the prosecution.

According to Directive 410.01. Section 6. Findings (p.11), "No inmate may be found guilty of a disciplinary violation unless it is supported by at least a preponderance of the evidence presented." If there is no written evidence for the prosecution available, then there cannot be a preponderance of the evidence in favor of conviction. Obviously, it would make no sense for the prosecution even to hold a disciplinary hearing if there is no evidence in its favor.

I was effectively exonerated due to a <sup>total</sup> lack of evidence for the prosecution. It may have been unsanctioned, but the time that I spent in the hole was not wasted. My own personal experience there did indeed amount to an instructive fact-finding mission.

#### Conclusion:

Because the H-18 living unit pod is located in the main building, its residents have better access to central services than from the peripheral buildings. I was surprised on a Saturday afternoon when a female librarian arrived at my cell door pushing a book cart. She asked if I wanted any books, envelopes, or paper. I answered that I already had more than enough books to keep me busy, but I could always use some extra office supplies. She opened the portal in my cell door and

handed me a clean 10" X 13" manila envelope containing seven white Number 10 business-size envelopes, five sheets of plain white 8½" X 11" typing paper, and sixteen sheets of white lined 8½" X 11" writing paper. I shared this bounty of clerical supplies with my fellow inmates after I had returned to the General Population.

In the end, I was released from disciplinary segregation in the H-18 pod at 3:30 PM on Thursday, October 17, 2019. I did not return to the MB living unit, however, as I had expected. Instead, I was reassigned to the G-13 pod located in the main building. It is considered an extension of the GP, but it feels a lot like intermediate closed custody, because inmate movement outside the pod is extremely limited. I prefer living in G-13 to H-18, but I still miss my brethren in the box.