



## *Inmate Visitation Rights*

This question was considered in many cases during the mid-1980's when correctional facilities began to prohibit contact visits in response to a growing contraband problem. As may be expected, many lawsuits arose wherein prisoners asserted that they had a right to contact visitation. Many asserted a right to conjugal visits.

The U.S. Supreme Court considered these issues in the case of **Block v. Rutherford**, 468 US 576, 82 L Ed 2d 438, 104 S Ct. 3227, decided July 3, 1984. Dennis Rutherford was a pretrial detainee in the Los Angeles County Jail. The Sheriff of Los Angeles County had established a blanket prohibition on contact visits. Rutherford sued. The Supreme Court held that the prohibition was a reasonable and non-punitive response to legitimate security concerns, consistent with the fourteenth amendment. The court ruled that the constitution does not require that detainees be allowed contact visits when responsible, experienced administrators have determined in their sound discretion, that such visits will jeopardize the security of the facility.

The court found it important that the denial of contact visitation was not a punishment, which would have required "due Process", but was an incident of some other legitimate governmental purpose (security).

The Court reaffirmed its prior holding that "Prison Administrators (are to be) accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgement are needed to preserve internal order and discipline and to maintain institutional security."

Accordingly, the Supreme Court upheld the denial of contact visitation. The court did not address the issue as to whether an inmate in a correctional facility has the right to visitation at all. That issue has been addressed by other federal courts.

In **White v. Keller**, 438 F. Supp 110, 1977, the United States District Court in Maryland held that neither prisoners nor visitors have a constitutional right to visitation. The right of association that free members in society have is curtailed upon conviction of crime.

The reasoning and holding of *White v. Keller* has been adopted by other federal courts in deciding prison visitation issues. The Federal District Court of Kansas adopted the holding in **Smith v. Matthews**, 793 F. Supp 998, 1992.

The only case decided by Federal Courts in Florida relating to prison visitation rights is **Van Poyck v. Dugger**, 779 F. Supp. 571 (M.D. Fla. 1991). The court held that although the inmate had no absolute right to visitation under the first amendment, Florida law created a liberty interest in an inmate's right to visitation by setting forth regulations relating to the denial of visitation. The regulations were contained in the Florida Administrative Code, Chapters 33-5.006 and 33-5.007. By enacting these provisions, the state of Florida placed limitations on official discretion.

Even though the state of Florida may have made visitation a privilege, it is still subject to the discretion of prison authorities; provided the visitation policies of the prison meet legitimate penological objectives.

Courts have been reluctant to interfere with the decisions of Correctional Administrators regarding visitation policies that are non-punitive and are designed to address a legitimate correctional interest such as security.