

DOC Legal Division
Attn: Ms. Kathleen Richard, Paralegal Specialist
70 Franklin Street - Suite 600
Boston, MA 02110

RE: Public Listening sessions 10/29 & 10/30/15 taking place
in The Ashburton Cafe Function Room in the McCormak Bld.,
One Ashburton Place, Boston

Dear Ms. Richard and CMR promulgators:

I am writing in response to a request for airing problems, complaints and/or suggestions for changes in the Code of Massachusetts Regulations (CMR's) as they relate to those Regulations promulgated by the Massachusetts Department of Correction. Please forward this letter to the appropriate Committee and/ or individuals responsible for the listening sessions and/or action for changes in the Regulations.

103 CMR 481 et. seq. Inmate Mail, 103 CMR 403 Inmate Property - Prisoners have very limited access to the "real world" and as a consequence, are being literally and figuratively (emasculated) left in the dust and out of touch with advancing technologies and the world. The incarcerated are already living in near stone age informational conditions (VERY LIMITED access to CDs & DVDs), and with no access to cable TV, current movies, sports channels, with any movies rated higher than PG-13 being disallowed. Unreasonable, unmerciful and ludicrous censorship of magazines and books (that any 10 year old could purchase) is also a problem and frustration abounds especially in adult institutions. Such puritanical restrictions and lack of access to materials allowed by "community standards" do not in any way prepare the prisoner for a shocking reintegration back into society. While the Treatment Center may legitimately have concerns - other adult institutions should mirror the greater society and community as close a possible in regard to the popular media, television, news, publications, technologies, entertainment, music and movies. To do otherwise is to promote shock, awe, distress and the potential failure of someone removed from the "real world" for significant periods of time.

While there is no law that requires the opportunity to view contrabanded publications. And I am very aware of the literal reading of the Mail Regulations promulgated by the MDOC (Massachusetts Department of Correction) in 103 CMR 481 et. seq. and specifically **481.16(4)**. The problem/s come in the interpretation along with conflicting and ambiguous parts of the Regulation that ignores "fundamental fairness" and/or presumes that an "honest broker" will oversee the administration of the Regulation. That in my view is the real problem - no honest broker. One would expect that (in a free society built on democratic principles) it should go without saying that the legal principle of due process is not served at all when one is **UNREASONABLY denied the opportunity to view** what the objection is, where the loss of a first amendment right results from subsequent denials of a legitimate request for the purpose of an affirmative appeal (defense) - by not allowing and argument based upon facts observed because exculpatory evidence is withheld by the censor. Allowing the offending censor to hide behind a punitively interpreted regulation that only "winks" at due process without potential for any substance (what standard of review is being used) is absurd. Without viewing what the objection is, any appeal can only be based upon the sterile exercise of whether or not the regulation was followed (not getting to the question "are the censors lying" or biased). Besides this travesty, (after a letter requesting to view is denied) appeals are made in the form of a grievance to the Institutional Grievance Coordinator (IGC) who is controlled by the censor (deputy superintendent, the IGC's immediate supervisor).

Although the IGCs could easily allow viewing (and occasionally have said so), the deputies and superintendent refuse to allow it. The IGCs are not being allowed to do their job and are being told how to respond to grievances relative to contrabanded publications.

The 103 CMR 481.16(4) *does allow for viewing* but the "may allow" language is only activated for (presumed) valid reasons (i.e., not compromising institutional security and/or instruction in criminal activity). Viewing in the presence of correctional staff of a NON NUDE publication does not fall into those categories. The language in this regulation should be changed to "SHALL ALLOW viewing upon request". Furthermore, it would be helpful to remove nudity from the regulations definitions and allow sexually explicit to stand by itself, otherwise ambiguity remains .

Reading the Regulation, one may only appeal the decision ... and apparently not the substance (the merits) regarding the censorship. Yet prior sections of the Regulation prohibit personal bias, prejudice and/or discrimination based on religion, gender or sexual orientation from entering into the censors decision. Considering this along with the ambiguous definitions section, one is left at the mercy of an out of control "prude" who has some personal problems (with women) not limited to other suspected proclivities. If one is not allowed to even examine (view) or question what the objection is, and there is no "honest broker" to counter the aberrant behavior of the censor and/or dubious pronouncements. Where is fairness and/or for that matter justice? They (administrators) have even contrabanded the highly regarded Sports Illustrated - the Swimsuit edition 2012 (an subsequent annual issues). For their purpose of contrabanding the above, they are for the most part, using the dubious reason that the material is sexually explicit and/or contains nudity.

I continue to strongly believe that due process and equal protection rights guaranteed by the Massachusetts State Constitution & Declaration of Rights and the 1st, 5th, 11th, & 14th amendments of the U.S. Constitution are being violated. In addition, I suspect that along with myself, others are being discriminated against based upon gender and sexual orientation (as male heterosexuals). Past administrations clearly have had a problem with women. It may be prudent to contact the U.S. Department of Justice, Civil Rights Division in the above regard- to advise of the above problem/s asking for their advice and/or intervention.

Lastly, to make my position clear - I am in no way advocating for pornography and/or sexually explicit material to be allowed (per the Regulations definition). I am merely asking for fairness and a reasonable application of the Regulation. The grievance and/or appeal process (103 CMR 491 et.seq.) is becoming nonsensical and a fraud where the censors are the appellant authority and as such raise serious legal concerns about the process and principles in which real world democracies operate. Does not the Constitution also apply to prisoners? Or, must prisoners be subjected to the anarchistic and twisted prejudices of rogue administrators who are free to discriminate (ignoring community standards) without the substance of their decisions being legitimately questioned?

An ombudsman should be assigned to investigate grievances, (103 CMR 491, et. seq. Inmate Grievance)- not someone under the direct control and supervision of the Deputy Superintendent. Reasonable access to the courts is almost nonexistent with the added impediment of getting copies of documents 103 CMR 478 Library Services, et. seq. Exorbitant court filing fees (discourage legitimate complaints), different standards of indigence for prisoners, verses indigent citizens - and prisoners rights are essentially nonexistent. Thirty (30) days following the exhaustion of a grievance is the absolute limit of time for bringing an issue to court (other than a

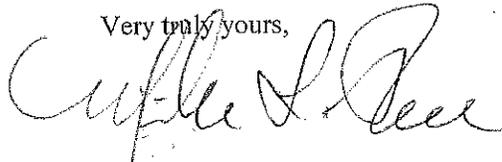
disciplinary issue - 60 days) places a difficult time constraint upon the prisoner given the difficulties in accessing document copies in the Law Library and along with other significant impediments experienced by incarcerated individuals.

Simply put, changing the regulations language in 103 CMR 481.16(4) from *may* to "shall" (mandatory language) along with deleting nudity from the definitions will make life much more easy for all concerned - and totally conform with community standards.

October 5, 2015

cc: - file

Very truly yours,

A handwritten signature in cursive script, appearing to read "Milton L. Rice".

Milton L. Rice.

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October 19, 2015

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Attn: Ms. Kathleen Richard, Paralegal Specialist
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Prior administrators at MCIN (specifically the former ADA Coordinator and superiors) have continually violated state law by the Denial of Requested Reasonable Accommodation of Special Need 103 CMR 207, et. seq. - 103 CMR 207.04(2) Medical Order for Reasonable Accommodation of Special Need, pursuant to 103 DOC 630. The Code of Massachusetts Regulations (CMR's) are Laws and failure to comply is a violation of State Law and/or contributing by extortion of Medical Malpractice by intimidation of the unwitting medical staff via stated verbal and/or phantom unwritten "policy."

"Changes" (by whom and by what authority?) in administrative phantom unwritten "**policy**" to **remove** the medical staffs option for "ordering" medical accommodations (in violation of 103 CMR 207, et. seq.) have circumvented medical care and damaged the quality of life for disabled prisoners. If the Medical Staff are ordered (forbidden, threatened and/or intimidated) not to recommend a "stand-up locker, or other accommodation, etc." by Administration, they are being interfered with in violation of the CMR (state law) and the obligations of employee's medical licensees - all of which can be clearly documented.

The above referenced CMR's state:

"103 CMR 207.01(4) Department Policy - Any Inmate...claiming a special need due to a physical or mental state, that amounts to a limitation or impairment in everyday activities, whether claimed as a disability under the Americans with Disabilities Act (ADA) or not should be considered for the limitation or impairment.

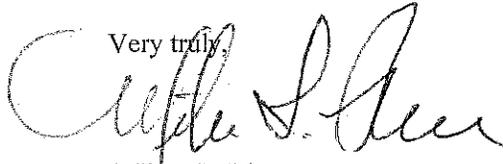
103 CMR 207.04(2) If Medical Staff determines that a medically prescribed accommodation is warranted, he/she **shall convey** the **Medical Order** to the Institution ADA Coordinator via the "Medical Restrictions Form" (Attachment B) as per policy 103 DOC 630 and **shall enter** the order in the "Restrictions / Limitations / Special Needs" section of the "Medical Restrictions" screen of the medical module of the IMS.

(continued) 103 CMR 207.04(2) "... Under NO circumstances shall Correctional Staff substitute their judgment for that of Medical Staff where a Medical Accommodation has been prescribed."

The problem is that no "Order" is given because of intimidation of the medical staff being told that "policy says" they cannot issue such an order.

This egregious interference with inmate/prisoner quality of life is beyond unreasonable and needs to stop. There is nothing wrong with the CMR referenced above. Administrative interference is the problem that needs to stop. A real ADA Coordinator should be in place who has a medical background and training in physical disabilities, geriatrics and special needs.

Very truly,

A handwritten signature in cursive script, appearing to read "Milton L. Rice".

Milton L. Rice.

cc: - interested parties
- file