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Jim Schwochert, DAI Administrator
Department of Corrections
3099 E. Washington Ave.
P.O. Box 7925
Madison, WI 53707-7925

Re: Request for investigation and intervention

11 August 2016

Dear Administrator Schwochert,

Sir, I am writing to both inform you of the decision of GBCI officials to deny inmate workers and students their required amount of recreation, and to request your intervention in this matter.

As the prison lockdown winds down, GBCI officials have recently posted a revised recreation schedule. This schedule designates rec. times by tiers, whereas the longstanding schedule accounted for work and school. Inmates are being told that beginning Monday, August 15, 2016, if they work or go to school they will have to forego and not be allowed to attend recreation if/when the times of the revised schedule conflict with their work or school assignments. In effect, that they will be denied recreation because they work or go to school. This is illegal and unconstitutional.

The Seventh Circuit Court of Appeals has recognized that exercise is a necessary requirement for the physical and mental well-being of inmates; and, that denying inmates opportunities for out-of-cell exercise violates the U.S. Constitution's Eighth Amendment prohibition against cruel & unusual punishment. See Delaney v. Detella, 256 F.3d 679 (7th Cir. 2001). The court further held that inmates are entitled to at least five (5) hours of recreation per week. Administrative Code § DOC 309.36(2) mandates (through the use of the word "shall") that inmates be given a minimum of four (4) hours per week recreation.* Neither federal caselaw nor department rules or policies allow for exclusion of workers or students from the constitutionally and administratively required amount of recreation. Thus the actions of GBCI officials are arbitrary, capricious, and a violation of both the constitutional rights of inmates and the rules of the department.

What is disturbing to me--someone who's spent 26 years in prison--is that prison officials, in any modern prison, would be so indifferent towards the law, the rights of inmates and the rules of the department as to, in effect, punish inmates for working or going to school--two "rehabilitative goals" expected by the public. The notion that because I (myself a maintenance worker) perform an essential function necessary to the operation of the institution, or another inmate seeks education that it is hoped will prevent recidivism, can & are being forced to relinquish their right to something deemed medically necessary to their well-being, is shocking to the adult conscience and a complete regression in penal philosophy. I, for one (as I assume is also true of others), will quit my job and be unassigned before I relinquish my right to recreation.

August 11, 2016

Jim Schwochert

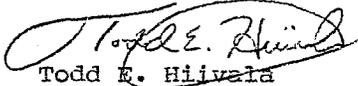
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But the real question here, is: What's the point; what are GBCI officials attempting to do or accomplish by such unsanctioned and illegal (indeed, despotic!) actions? I both feel and fear that by & through such oppressive and extremist actions officials here are attempting to provoke some type of disruption; or at the very least, a flurry of unnecessary litigation that is sure to cost the department and taxpayers many thousands of dollars. This is just my opinion, or observation, but it's based upon a thorough knowledge of the law and a quarter century of incarceration in a dozen prisons across three states.

I'm asking, Admin. Schwochert, in the interests of maintaining safety, order and the proper treatment of and respect for the rights and well-being of inmates at this facility, that you immediately investigate this radical departure by GBCI officials from the administrative rules of the department and constitutional rights of GBCI inmates. Further, that you take steps to ensure ALL GBCI inmates--workers, students & otherwise--receive the minimum and same amount of recreation mandated by Admin. Code § DOC 309.36(2).

Thank you for your valuable time, and your prompt action and response in this matter would be most appreciated.

Respectfully yours,


Todd E. Hivala

cc: Peggy Swan, Community Activist
File

* While for reasons unknown Admin. Code § DOC 309.36(2) conflicts with federal caselaw, Federal Bureau of Prisons Standards, and sources like the U.N. Charter and Geneva Convention, which all speak to an hour a day (at least during the business week) of recreation for prisoners and prisoners of war, even assuming for sake of argument the four hours in this admin. code are sufficient, under GBCI's revised recreation schedule workers and students will not even be afforded this amount.