

The Law Office of
JOHN REINSTEIN

Attachment
"C"

June 24, 2016

Bradley A. Sultan, Esq.
Department of Correction
70 Franklin Street, Suite 600
Boston, MA 02108

Request for Preservation of Records

Dear Mr. Sultan:

As you may recall, I represent Timothy J. Muise, Inmate # W66927. Mr. Muise was taken from his cell at MCI Shirley on the night of March 23, 2016, transferred to MCI Norfolk where he was held in isolation for over two months and has been charged with seven violations of Department of Correction regulations. I am writing to advise you that it appears, based on currently available information, that Mr. Muise has grounds for a lawsuit against officers and officials of the Department of Correction and to request that certain documents and physical materials which would be relevant to such a suit be preserved by the Department of Correction and its employees, agents and attorneys.

The disciplinary charges against Mr. Muise involve "an alleged plan involving several inmates at MCI Shirley to attempt to build a computer, which they intended to utilize, if able, to hack into and disrupt the computer system of the Massachusetts Department of Correction." Specifically, the Disciplinary Report charges that "Muise conspired with inmates, Michael Serra W106173 and Shawn Fisher W58410 under Muise's leadership while utilizing technical knowledge of inmate Serra."

These charges, while lacking specifics other than some ambiguous email messages, rest on a premise which is highly improbable and almost certainly impossible: that prisoners using a closed loop group of training computers could access and compromise the unconnected Department computer system. Moreover, with respect to the charges against Mr. Muise, it appears from statements made by the officers responsible for the investigation that the purpose of these charges was to discredit and isolate Mr. Muise, who has been an unrelenting critic of the Department of Correction and, in particular, the policies and practices at MCI Shirley and who has encouraged members of the Massachusetts legislature to come to the prison to hear

prisoners' grievances and to examine the administration of the Department of Correction and of MCI Shirley. Indeed, the Disciplinary Report itself rests in part on Mr. Muise's statement, oft repeated by him and unrelated to the computer program, that "To agitate, to disrupt, and to resist is our duty." This is not the first time that such sentiments have been expressed by prisoners, and I am sure it will not be the last. I would not expect prison officials to agree with this message, but they are not free to suppress it. The retaliatory use of disciplinary charges violates the First Amendment to the United States Constitution and provides the basis for litigation under both federal and state law.

Accordingly, I hereby request that you take all necessary steps to preserve the following records or materials until such time as the dispute described above is resolved by litigation or otherwise:

1. All documents relating to the alleged effort by prisoners to build and operate a computer at MCI Shirley as set forth in Disciplinary Report No. 364360 and the alleged involvement of Timothy Muise in that effort.
2. All documents relating to the meetings between prisoners and members of the Massachusetts Legislature, which took place at MCI Shirley in 2015 and 2016, including the involvement of Timothy Muise in promoting or participating in those meetings and any statements Mr. Muise may have made at such meetings.
3. Any documents concerning or mentioning Timothy Muise, which contain a reference to Phase I, Phase II or Phase III.
4. Any records of communication during the period from October 1, 2015 to the present between officials or employees of the Department of Correction and members of the Massachusetts Legislature concerning complaints by prisoners or conditions at MCI Shirley.
5. Any records of mail or other communication to or from Timothy Muise during the period from July 1, 2015 to the present, including any monitoring of his mail during that period.
6. Any records concerning the termination or suspension of the employment of Patrick Parker-Roach at MCI Shirley.
7. Any records of electronic communication made or received by Timothy Muise in connection with his participation in the Computer Learning Group at MCI Shirley, including any attachments to those communications.
8. Any records of electronic communication made or received by Michael Serra in connection with his participation in the Computer Learning Group at MCI Shirley, including any attachments to those communications.
9. Any records of electronic communication made or received by Shawn Fisher in connection with his participation in the Computer Learning Group at MCI Shirley, including any attachments to those communications.
10. Any written syllabus, course description or similar record describing the contents of the instruction in the Computer Learning Group at MCI Shirley.

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11. Any storage device, including individual computer hard drives, containing records of communication between or among prisoners participating in the Computer Learning Group at MCI Shirley.
12. Any computers or other equipment available to prisoners in the Computer Learning Group at MCI Shirley, which were used for purposes of instruction in the maintenance and/or repair of computers.

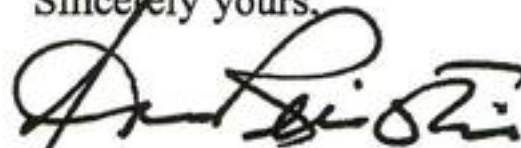
For purposes of this request, the terms used herein should be interpreted in accordance with the definitions set forth in Rule 34 of the Federal Rules of Civil Procedure and Local Rule 26.5 of the United States District Court for the District of Massachusetts.

I appreciate that there may be objections to the disclosure of certain of these records. Such objections, however, do not affect the obligation of the Department to preserve the records in question.

Please acknowledge receipt of this letter and confirm that you have communicated to the appropriate officials and employees of the Department of Correction that there is a litigation hold on these materials.

Thank you for your consideration.

Sincerely yours,



John Reinstein.

cc: Dean Mazzone, Assistant Attorney General
Nancy Ankers White, General Counsel, DOC
Attorney Rosemary Curran Scapicchio