

October 22, 2018

Dear Messrs. Lux and Kay,

I wanted to thank you for your letter of Oct. 2nd and for your advocacy on improving the grievance system. I would definitely agree with Ms. Gorgey and Ms. Spindler that "the grievance process is riding on a thin rail in terms of compliance and appropriate redress." I am glad that they acknowledge the problem and that your office is monitoring the issue. However, I had 3 comments I wished to make in regards to the rest of your letter.

First, you were told that NDCS hopes that "within the next few months the grievance system will be managed electronically with will eliminate the trouble areas." On Oct. 11th JPay sent out an email to everyone announcing new services, one of them read in part as follows:

"3. NDCS Direct Contact - You can now send facility staff a confidential message through the kiosk. After logging into the kiosk, follow these steps:
a. Click on the Communications Center button on the kiosk
b. Click the "New" button to start a new grievance
c. Under the form section, select NDCS Direct Contact and draft your communication."

I was excited to check out this new "grievance" process but I couldn't test the new feature as you are only allowed one open ticket in the Communications Center at a time and I had an open trouble ticket with JPay. A week or more later I happened to notice a new memo posted in the gym (and only in the gym, not in our gallery nor in the library) that was dated Oct. 11th also, was from Robin Spindler and read in part as follows:

"Direct Contact Email

An 'NDCS Direct Contact' email address was recently added to all JPay account contact lists. This email address is ONLY to be used as a secure method of reporting information on potential or policy violations or criminal activity. For all other issues, you will still use inmate interview requests and grievances to communicate with NDCS staff members. In the event that an email does not pertain to a policy violation or criminal activity, you will receive an automated response indicating that no action will be taken."

I bring this to your attention because it appears that Ms. Spindler may have misinformed you about NDCS moving to an electronic grievance process to "eliminate the troubled areas" in system. She makes it clear in her memo that, in spite of JPay calling it a new grievance, using the NDCS Direct Contact is NOT meant for grievances. For those we are supposed to still use the paper forms, of which only 50% of mine in the past few months have even been acknowledged as received.

The second issue I wished to raise was that I originally contacted your office about an inadequate response to a petition signed by over 200 of us at TSCI requesting that the

Toastmasters club officers be allowed to use the computer lab to produce our newsletter and other documentation. The petition goes to great length to show how allowing an "educational endeavor," such as Toastmasters, to use the computer lab is perfectly within the language of AR 104.07 - Inmate Computer Use. Their response that their denial is in accordance with current NDCS policy, without addressing any of the reasoning in the petition, indicated to us that it hadn't even been read. It was a frivolous response in spite of the petition being signed by over 200 people. My question for you is, since they admit to riding a thin rail in terms of appropriate redress, and wish to "make sure the responses are of substance and professional," can we resubmit the Step 2 petition for the central office to review and respond to in a more substantive and substantial way?

The third issue I would like to raise is about collective punishment (even though you, and the admin. keep labeling my complaint "microwave"). You, and the admin., call the microwave a privilege, as if that makes its removal not a punishment. Phone time, canteen and even freedom of movement are also privileges when you're incarcerated, but removing them from everyone is still collective punishment. If teens in your neighborhood sped a lot would it be proper to suspend everyone's license in the neighborhood? Driving is a privilege but suspending a license is still punishment and doing it to everyone is collective punishment which is unjust and would likely lead to vigilante speed enforcement by innocent neighbors. Also, you claim that when it comes to safety issues the staff have full discretion. That is true but ignores the argument that removing the microwave, which was never said to be involved in any "deviant acts," actually increases the risk of violence because they are tacitly condoning one person regulating another's behavior. If you make one person in here responsible for another's actions there is a high likelihood that they will get into a fight over it. That is directly counter productive to the safety of the institution while the microwave was never claimed to be causing the alcohol and substance abuse, it was merely a means of punishing everyone. The substance of my (repeated) grievances on this issue is not that it's unfair that they took our microwave, it's that they are actually making the facility less safe. The admin. repeatedly ignores that rationale which is why I contacted your office. Unfortunately, you seem to have missed the main point of my grievances also. I would ask you to reconsider them.

Again, I appreciate the work you are doing to improve the grievance process. That is why I thought you should be kept informed about the first issue, of the NDCS Direct Contact email. I also would like to know if the grievance process is going to be more substantive, can we resubmit our petition that was not previously adequately addressed? Finally, I wanted to make clear what the core of my collective punishment complaint was. They are actually encouraging violence by taking the microwave.

Thank you for your time and attention,

Robert J. Heist II