

Senator Rand Paul
Senate Office Building
Washington, D.C.

May 16, 2018

Dear Senator Paul,

The Federal Bureau of Prisons has officially launched a war on journalists. On April 19, 2018 I was removed from general population at LSCI Allenwood and placed into the Special Housing unit (SHU), otherwise known as the 'hole,' for 15-days. My crime was discarding over 300-pages of food service invoices acquired through a Freedom of Information Act (FOIA) request.

In true Orwellian fashion I was charged with:

- Stealing; theft (including data obtained through the unauthorized use of a communication device, or through unauthorized access to disks, tapes, or computer printouts or other automated equipment on which data is stored)
- Possession of anything not authorized for retention or receipt by the inmate, and not issued to him through regular channels
- Lying or providing a false statement to a staff member

When questioned by Lieutenant Cheung at 1 AM on April 18 I told him the truth--that those documents were redacted FOIA material that another inmate had left behind when he went home. Not being a big fan of wasting paper I thought that placing them on the mailbox, where everyone throws old newspapers, magazines, books, etc. was the right thing to do as the backs of them could be used for scrap paper. He let me know that he was very familiar with FOIA documents and the ones in front of him were in fact stolen. Even after I pointed out the redactions on nearly every page he wouldn't be swayed. Finally, he let me know that I'd be going to the hole for lying to him.

Special Investigation Services (SIS) Lieutenant Geib interviewed me on April 19th at 12:30 PM. We went through a similiar song and dance. Once more I explained very politely that these papers were the result of a FOIA request. She proceeded to let me know of her experience with FOIA materials, but unfortunately her experience failed to alert her to the fact of what was in front of her. Additionally perplexing is the fact that she was in possession of the

FOIA number for the documents in question, from an email I had sent out earlier that morning that she showed me, but no effort was made to check out the request number. Instead she threw me in the hole.

The FOIA documents that I'd left on the mailbox, to be used for scrap paper, were the unneeded remains of request number 2016-07436. This request was for (1) the last three months of invoices for all food services items; and (2) the total amount of money collected from the officer mess hall for last six months. It was filed by my former cell-mate Paul Rockwood.

Utilizing the data concerning the amount of money collected from the officer mess hall over a period of six months Mr. Rockwood wrote a scathing letter to the Inspector General's office disclosing his findings. This letter is enclosed. It was discovered that administrative staff at LSCI Allenwood don't feel the need to pay the \$2 cost for their meals.

The invoices for all items delivered to the food service department were requested in order to determine whether embezzlement was occurring. At this institution, among other anomalies, the french toast is made with regular whole wheat bread versus the white bread that, as far as I've seen and heard, other federal institutions use. Mr. Rockwood and I were curious as to whether white bread was actually being ordered because the recipe card specifically calls for it. In addition, the BOP's chief dietitian, Mitchel Holliday, wrote in a memo dated September 22, 2015 (each year this memo is reissued) that:

"Food Service Administrators must ensure strict adherence to providing food options identified on the menu in accordance with approved ingredients, standardized recipe cards, and standardized portions." (Emphasis added.)

Amazingly there were deliveries of white bread on July 25, 2016 and August 8, 2016 as disclosed in the FOIA documents covering that brief 3-month span. The amount was small, 120 loaves (22-slices each) at \$1.05 each, for a grand total of \$126.00. Yet, there is good reason to question the completeness of the records furnished given that the BOP "forgot" to include fresh fruit and vegetables in the initial batch of documents sent; only remembering when an appeal was made to the Office of Information Policy (OIP) and they were forced to do so.

(See the Notes section for more info.) Either way the fact is that there were 2,640 slices of white bread sent to LSCI Allenwood within a period of a couple weeks and none of them went to the inmate population despite the recipe card requiring such an ingredient.

Senator Paul, I believe that it is fairly obvious that the recent charges leveled against me by the BOP are motivated by vengeance and not justice. The idea that FOIA documents not specifically ordered by me are contraband is absurd and only serves to hinder investigation into wrongdoing by the BOP. Such a policy is completely contrary to the spirit of the Freedom of Information Act. In Seavey v. DOJ, 2017 U.S. Dist. LEXIS 113028 (D.D.C., July 20, 2017) the court wrote:

"The basic purpose of the Freedom of Information Act [is] to open agency action to the light of public scrutiny" thereby furthering "the Citizens' right to be informed about 'what their government is up to.'" DOJ v. Reporters Comm. For Freedom of the Press, 489 U.S. 749...At this present difficult time in our country's history, it is important as never before, that the American public be as educated as possible as to what "our government is up to."

For my heinous crime the BOP has decided to take away from me the ability to visit with my family and communicate with them via email for a period of four months. Fortunately the Disciplinary Hearing Officer, Todd Cerney, dropped all the charges but the nebulous possession of anything not authorized offense. Although such restrictions are annoying they are not the main motivation for this letter. The idea that the BOP may place the Freedom of Information Act in a five-point restraint chair (a horrible form of punishment for intractable inmates) within its fences is why I write to you today. Traditional media is limited in their ability to investigate within the confines of the system due to the myriad number of rules and regulations governing their conduct. Inmate journalists are around and willing to fill the void but they need your help.

Respectfully,



Jason Gerhard 20229-045

LSCI Allenwood

P.O. Box 1000

White Deer, PA 17887

Notes:

(1) The BOP has a habit of forgetting to release documents. Just last year a federal lawsuit was required to get them to remember. See Gerhard v. Federal Bureau of Prisons, 258 F. Supp. 3d 159, (D.D.C. July 11, 2017).

Documents cited in this essay as well as past essays about the BOP can be found at:

www.yearofjubile.com