

WE ANSWER TO NO ONE

By: Norfolk Legal Advisory Committee
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As our Nation and the Commonwealth moves toward criminal reform, the Department of Corrections declares war. The DOC has no problem saying no to the laws of the Commonwealth. The legislators have spent months, even years, passing laws to curb the never ending recidivism rate. Their goal is to end the draconian system of the tough on crime and lock'em up forever policies that have done nothing but bring havoc on the taxpayers and, perpetuate the never ending revolving door of a broken system. This is the system the DOC was built on, and this is the system that will remain, because the DOC answers to no one.

In July of 2012, the legislature revised the earned good time statute to entice inmates to enroll in programs that would improve their chances of re-entry, and shorten their sentences. Within thirty days of passing this law, the DOC raised the eligibility to earn that good time. Raising it wasn't good enough, they then implemented a system that if you missed just one day over their new requirements you would be awarded no good time for the month, even if it was for medical reasons. So instead of being fair and awarding you four days instead of five, they would award you none. In 2018, our legislators raised the amount of earned good time again, and again the DOC's response was to raise the bar.

Another legislative change was to the DOC's policy of restricting juvenile offenders from programs and lower security. After passing the requirements for programs and classification hearings, the DOC refused to comply. An inmate challenged this in court. The Supreme Justice Court, the highest court in the Commonwealth ruled in favor of the inmate, and the DOC did nothing. Again, the inmate filed a petition, and again the DOC did nothing. As this is being written the third petition sits in our highest court for a decision.

As for re-entry programs, one of the best programs which cost the DOC or the taxpayers nothing, was the Boston University program, where inmates studied and received Bachelor's Degrees. As of this year, no more. Now it's a certificate program. The welding program was designed for preparation to take the Massachusetts Bridge and Highway Certification test, which certified you to weld anywhere in the State. This too is now a certificate only program. Two programs that could ensure employment are now scrubbed.

In 2018, our legislators made changes to the inmate visiting procedures, stating, "inmates visitations will not be restricted." As this law was being passed the DOC was implementing major restriction on visits, forcing visitors to go far beyond the statutory laws requiring entrance to prison facilities.

In the last year the DOC has made several changes that go directly against the Code of Massachusetts Regulations and the Massachusetts General Laws. The inmate mail is now photo copied, and the inmate receives a copy of his or her mail. The Inmates are restricted from sending their own money to loved ones, religious organizations, or even their stock portfolios. These procedures indicate that the DOC is isolating inmates from both their Family and Finances which are regulated by legislative statute and the Code of Massachusetts Regulations.

The DOC consistently uses the term, "security reasons" as a blanket statement for each of their actions. Yet, every prior administration to this one has been able to deal with situations without changing regulations or blatantly disregarding the law.

In the book, *Fundamentals of Criminal Practice* by Thomas E. McClure and Thomas E. Eimermam, states, "[T]he United States prides itself on having a government that is based on the rule of law. A collection of legal principles that relate to the placement of limitations on the exercise of political power and the operation of government. These principles include, 1) government must follow its own rules; 2) government must apply the law impartially; and 3) government must provide due process for those accused of breaking the rules." Inmates are being punished for not following the laws of the Commonwealth, yet the people in charge of the inmates refuse to follow the laws. We wonder why all of the legislator's efforts towards criminal reform are failing. Why is it the inmates have to file law suit after law suit for the DOC to follow the laws of the Commonwealth, only to file them again because they won't abide by our highest courts either? Why, because the Department of Corrections answer to no one.