

Human Rights Coalition Testimony to PA State Senate Hearing on SB444
May 13, 2013

The proposed changes to prisoners' access to the Right-to-Know Law in Senator Pileggi's SB444 are a turn in the wrong direction and are absolutely contrary to the spirit and intention of the law as it was conceived. This ill-considered proposal further dehumanizes and stigmatizes prisoners by stripping them of yet another fundamental right - the right to know what the government is doing. If Pennsylvania legislators or Department of Corrections officials were truly concerned about cutting costs, they would write laws that ensure that less people go to prison, expedite parole processes, and eliminate the vast array of solitary confinement units that fuel recidivism and brutality.

That the majority of RTK requests made to the PA DOC's Open Records office are filed by prisoners should come as no surprise: there is no group of Pennsylvanians more dedicated to investigating corruption and waste in the prison system than those confined within its walls. By stripping these citizens of their right to effectively use the RTK law, SB444 would virtually eliminate the prisons' most ardent and effective watchdogs and help ensure that PA DOC's actions and decisions remain hidden from the general public. Depriving prisoners of more rights will remove one of the few remaining potential checks on a run-amok prison system that is based on a culture of abuse, operates largely in secret, and is an ever-growing financial burden on state coffers.

The vast majority of requests for information filed by prisoners with PA DOC center on or are inspired by the following topics:

- Are they being treated fairly and according to the law?
- When faced with prison conditions that seem unfair, unjust, abusive, cruel, or negligent, what are the rules, decisions, and facts that have created or are supporting those conditions?
- Is there a way to challenge and change those conditions using grievances, lawsuits or other forms of advocacy?

A quick review of the PA DOC's Right to Know Request Log from 2011 (see Attachment 1) reveals, within just the first 100 entries (of 977 filed between 1/1/11 and 10/3/11), several examples of prisoners filing investigative requests centered on government accountability, requests that in all likelihood would be prohibited by SB444. Here's a partial sample:

- Request #13: Budget information for SCI Coal Township (granted)
- 38: training programs completed by SCI Fayette staff (denied)
- 39: meeting minutes Centralized Commissary Committee Mtg (granted)
- 53: information on medical records and grievances (denied)
- 67: health care services administrator's medical background (partially granted)
- 69: JPAY contract (partially granted)
- 74: salaries of SCI Fayette employees (partially granted)
- 75: information on the termination of a CO (denied)

Each of these requests focus on information that is crucial to any sober, responsible citizen who seeks to pursue an interest in government accountability and the decisions about prisons that affect our lives: How is this prison spending taxpayer money? Are staff at this prison provided adequate training to carry out their tasks competently and professionally? What decisions are being made about the food being served to myself and other prisoners? How is my healthcare being managed and what are the details of my medical situation? Is the person who has power over my standards of healthcare experienced and competent? What rules and agreements underlie the handling of money sent to me by my loved ones? How much are the people responsible for my care and supervision being paid? What were the circumstances surrounding the firing of someone who had power over me in an official capacity?

The spectre of "resource-sucking prisoners" threatens to obscure a vital fact: prisoners are already denied full use of the RTK law, via their virtually nonexistent access to outside legal resources to appeal RTK request denials and the PA DOC practice of using, whenever possible, the "security threat" exemptions of the RTK law to deny requests with the intention of concealing their actions, decisions and policies that are most clearly in violation of common standards of decency--and often, international laws and norms governing human rights and the treatment of prisoners. **Any responsible attempts to amend PA's RTK law would include greater access (by prisoners as well as outside entities) to these important records and an extensive review by outside agencies of PA DOC's use of the concept of "security threat".**

The area in which PA DOC perhaps most reliably prevents inquiry is around the issues of solitary confinement and other abusive practices. RTK requests (indeed, any form of prisoner inquiry, including grievances) aimed at DOC policies and decisions surrounding prisoners' "sentences" to RHU, the Restricted Release List (by which the PA DOC is currently holding 87 individuals in indefinite solitary confinement) and the Secure Threat Group Management Unit (STGMU) at SCI Greene (similar in ways to Pelican Bay State Prison's infamous "Short Corridor" in California) are routinely and unequivocally denied via "security" exemptions, despite the obvious societal need to fully examine, understand, and appreciate the specific reasons why thousands of our citizens are being held in conditions described as torture by the U.N. Special Rapporteur on Torture, Juan Mendez, in 2011.

Attachment 2 to this testimony gives an example of just one of these instances, that of Manuel Ortiz. Manuel reports that he has been in solitary confinement at SCI Greene since August 22, 2009. He was initially issued a misconduct and sentenced to 300 days of solitary confinement under Disciplinary Custody status, after which he was told simply that he was "a danger to yourself or others" and has since been held on Administrative Custody status. He reports that he was one of the first prisoners designated for the STGMU, and has been in that program since August 21, 2012. He writes that he has learned that his mail is being monitored per policy 6.3.1, *Facility Security Procedures Manual, Section 25-Security Threat Groups*, but his attempts to use the RTK law to discover the policies governing placement in the STGMU as well as the reasons for his

own sentence there, have been met with virtual silence by PA DOC's Open Records Office. He has now spent nearly four years in solitary confinement with no hope or chance of release.

Our society claims a moral sanction to hold people in cages, based on the fact that prisoners have supposedly acted outside the bounds of what we consider desirable conduct: we've enshrined in law, among other things, our belief that might is not right, that differences should not be solved with naked violence, that stealing is wrong and that conflict is to be resolved via democratic participation in the institutions and decision-making bodies that govern the circumstances of our lives. If we have a duty to anyone to be open and transparent about the rules, methods and practices by which our society operates, it is to those who we hold captive, those whose freedom has been sacrificed so that we can feel that our laws are upheld.

What does it say about us when we try to prevent prisoners from seeking active, informed and lawful participation in the events and forces that control their own lives? SB444 is yet another in a long line of attacks on our Constitutional freedoms, an attempt to further codify and enforce the slave-class status of thousands of our state's citizens, and like its forbears Jim Crow and *Dred Scott v. Sanford*, should quickly be tossed into the dust-bin of history.

Human Rights Coalition
4134 Lancaster Ave
Philadelphia, PA 19104
HRC RTK contact: Andy Switzer, 267.269.5448

Attachment 1 (PA DOC RTK request log 2011):
[http://hrcoalition.org/sites/default/files/RTKL Request Log - 2011.pdf](http://hrcoalition.org/sites/default/files/RTKL%20Request%20Log%20-%202011.pdf)

Attachment 2 (STG RTK request 7-9-2012):
[http://hrcoalition.org/sites/default/files/RTK request Manuel Ortiz STG.pdf](http://hrcoalition.org/sites/default/files/RTK%20request%20Manuel%20Ortiz%20STG.pdf)