

THE RUTHERFORD INSTITUTE

JOHN W. WHITEHEAD
Founder and President

INTERNATIONAL HEADQUARTERS
Post Office Box 7482
Charlottesville, VA 22906-7482
U.S.A.

Telephone 434 • 978 • 3888
Facsimile 434 • 978 • 1789
E-Mail • staff@rutherford.org
Internet • www.rutherford.org

INTERNATIONAL OFFICE
CENTRAL AND EASTERN EUROPE
Budapest, Hungary

September 14, 2009

Via Facsimile/Certified Mail

Gene M. Johnson, Director
Virginia Department of Corrections
P.O. Box 26963
Richmond, Virginia 23261-6963

Re: The Quest Institute, Inc. / "Books Behind Bars"

Dear Mr. Johnson:

The Rutherford Institute has been contacted by Kay Allison, president of The Quest Institute, Inc., a non-profit corporation. For over 20 years, The Quest Institute has operated the "Books Behind Bars" program, which provides books and other reading materials without charge to inmates held by the Virginia Department of Corrections. In fact, over the course of its 20-year history, Quest has donated over a million books to inmates.

Earlier this year, Department officials issued a directive prohibiting inmates from receiving books sent by "Books Behind Bars." Despite Ms. Allison's inquiries and pleas that the program be allowed to continue, the department has failed to provide any clear explanation for its act of censorship, which violates the First Amendment rights of both the affected inmates and The Quest Institute. To this end, the directive preventing inmates from receiving books through the Books Behind Bars program must be immediately rescinded.

Clearly, Quest has essential freedoms at stake in this matter. Indeed, we are unaware of any statute, regulation, or policy setting forth the criteria the Department applies in granting or removing "approved vendor" status. Various courts have long recognized that the First Amendment protects the right of entities and individuals to send books and information to inmates. Moreover, the First Amendment forbids vesting such unfettered discretion to government officials to determine who may and may not engage in expressive activity. Thus, the Department's actions in regards to the Books Behind Bars program constitute egregious censorship and are a violation of Quest's clear First Amendment right. Furthermore, by failing to

Gene M. Johnson, Director
September 14, 2009
Page 2

provide Quest with an adequate explanation of its actions, the Department has denied their right to due process of law and a fair hearing.

Conflicting explanations have surfaced relating to the ban on materials from the Books Behind Bars program. One account indicates that the ban was allegedly instituted after only one book sent by the program was found to contain paper clips. Another account suggests that the ban was allegedly put in place after program volunteers failed to remove a compact disc from another book. Department spokesman Larry Traylor has been quoted in recent news reports that this has led the Department to remove Quest/Books Behind Bars from the Department's "approved vendor" list. To date, Quest has not received any adequate written explanation regarding the rationale for the Department's decision. However, the aforementioned incidents, even if they reflect legitimate concerns, do not warrant denying essential First Amendment freedoms to Quest and Books Behind Bars.

In an August 20 e-mail, Ms. Allison was informed by Statewide Program Manager Mary Reinman that the prohibition on prisoners receiving materials sent by Books Behind Bars is the result of a new policy applicable to all facilities statewide forbidding the donation of books directly to inmates. To the extent this new policy is the basis for the prohibition, it really makes no sense because there is no greater threat to security or some other penological interest arising from donated books than from books purchased from other approved vendors. Donated books will be subject to the same inspection procedure as purchased books. So long as the sender of the books is a reliable, bona fide entity based upon the Department's investigation and experience, which Quest is given its 20-year track record, there is no increased risk resulting from the fact that the book is donated and not purchased.

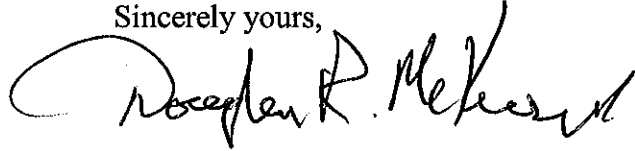
The alternative proposed of having Quest send books to the prison libraries is not acceptable. As Ms. Allison pointed out in a previous letter, inmates have only limited access to prison libraries. To this end, prison library officials cannot respond to the specific intellectual or spiritual need of a prisoner who desires a book on a specific topic. Nor can prison libraries provide inmates with books upon which they may regularly rely, such as dictionaries, the Bible or other religious texts.

The decision barring Books Behind Bars from providing an invaluable service to the Commonwealth is not only unwarranted and unnecessary but clearly violates the First Amendment rights of Quest and the inmates who benefit from the program. On behalf of Quest, which has been irreparably harmed by this restriction on its constitutional rights, we demand that the prohibition on inmate receipt of reading materials sent by Books Behind Bars be rescinded.

Gene M. Johnson, Director
September 14, 2009
Page 3

Should you fail to respond to this letter by close of business on September 17, 2009, we will be forced to consider other options, legal or otherwise.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Douglas R. McKusick". The signature is fluid and cursive, with a large initial "D" and "M".

Douglas R. McKusick
Staff Attorney

cc: Ms. Kay Allison, President
The Quest Institute, Inc.