

December 7, 2020

Michelle McConaghy  
Nathaniel M. Putnam  
United States Attorney's Office  
District of Connecticut  
157 Church Street, 25th Floor  
New Haven, CT 06510  
*Via e-mail correspondence*

Re: *Whitted v. Easter*, Concerns about Conditions at FCI Danbury

Dear Ms. McConaghy and Mr. Putnam:

We write to follow up on our letters of October 30, 2020 and November 23, 2020 expressing concern that FCI Danbury is not taking certain actions that it had committed to take to meet the medical needs of prisoners during the COVID-19 pandemic and to mitigate and control the spread of the virus. On November 24, 2020, you informed us that you had met with staff at the institution the week before and had “been assured that FCI Danbury remains in substantial compliance with the July 24, 2020 side letter (the ‘comfort letter’) and is dedicated to striving to meet each assurance made in that letter.”

Unfortunately, since we last wrote, we have continued to learn of concerning failures at the facility to control the spread of the disease. We understand there are now a number of positive COVID-19 cases in the general population of the prison in both the men’s and women’s facilities. As of today, the Warden reported to prisoners that there were 10 positive cases among them at the facility. (The BOP website reports that 3 staff members have also tested positive at the facility). In the past few days, we have learned that many individuals are experiencing symptoms of the disease. We are concerned that the facility is not taking appropriate steps to prevent COVID from further spreading within the facility. We are also concerned about access to medical care for medically vulnerable individuals at the institution.

Given the severity of the outbreak, we ask that BOP (1) immediately test everyone at the facility through both rapid and PCR testing and retest as needed; (2) halt the transfer of any new prisoners into the facility until the outbreak is contained; and (3) implement appropriate screening and quarantine procedures.

### **Extent of the Outbreak**

We understand that there have been positive cases in the past week in at least three of the units of the men’s facility—units C, J, and F. Each of these units is a dorm, containing between 55 and 80 men housed in bunk beds.

Our understanding is that after a man in C unit tested positive for COVID on 12/2, the remainder of the unit was tested that day. Three more men from C unit were informed they were positive on 12/6. A man from J unit also tested positive on 12/2, though it is unclear if the rest of that unit has been tested. On 12/4 it appears there was another positive test out of F unit.

We understand that there are also positive cases in FSL as of yesterday. It appears that two women tested positive yesterday and that another may have tested positive earlier today. As of this writing, our understanding is that there has not been unit-wide testing in the FSL, despite more than 100 women living together in a single room.

### **Failure to Detect COVID-19 through Temperature Checks and Symptom Screening**

The BOP committed in July that medical staff or a lieutenant would do daily temperature checks and daily screening of all prisoners for COVID symptoms. Yet there have been many missed days of temperatures checks and it appears that COVID symptom screening is not happening at any of the facilities within the prison. For example, in the Camp, as of this morning, the women's temperatures have not been taken and symptoms screening has not been performed since November 23. In the FSL, temperatures have been checked only once in the past two weeks (a week ago), and symptom screening is not occurring. Men from multiple units have also reported there is no symptom screening occurring. We are concerned that the lack of temperature checks and symptom screening have contributed to the spread of COVID within the general population.

### **Failure to Properly Quarantine and Test Those Exposed**

As noted, there are COVID cases now in at least three units of the men's facility. The individual to first test positive in C unit was working in the kitchen and had previously been housed in G unit. He interacted with people from units outside his own, and we are concerned that the other units at FCI who may have been exposed to the virus are not being tested. We understand that another man from the C unit (described in more detail below) had been feeling unwell for days and fainted in the unit on December 1. He was seen by medical that day and complained of a sore throat, cough, and difficulty breathing. He was returned to his unit. On December 6, he tested positive for COVID and was removed from the unit. Men in the units who have been exposed to individuals who tested positive may develop COVID in the coming days and will need to continue to be screened and retested. We want to ensure that people who are testing positive or who are displaying symptoms are appropriately evaluated, monitored, and quarantined/isolated. All of the men's units should be tested at this time and those with symptoms should be properly quarantined while awaiting test results.

In the FSL, despite two women testing positive yesterday, we understand that as of early this afternoon the unit as a whole has not been tested. Indeed, not even the women who were sleeping in the same bunk or cubicle as the positive women have been tested or removed from the dorm. One woman in the FSL who reported to medical yesterday because she was feeling unwell and experiencing severe body aches and chills was returned to her unit before being quarantined in the library pending testing. These issues increase the possibility that women in the unit who are currently uninfected may become infected and

that the virus may continue to spread. We urge the facility to conduct testing on the entire unit and to screen the women in the unit for COVID symptoms.

Meanwhile, women in the Camp are experiencing COVID symptoms and have been told they will not be tested unless they have a fever, because there aren't enough tests for everyone. Women who are reporting symptoms must be evaluated and tested, and, if necessary, quarantined/isolated. Because of the outbreak in the rest of the facility, the entire Camp population should be tested.

### **Other Serious Medical Issues**

We wanted to bring two particular issues to your attention regarding medical care.

There is a medically vulnerable class member who has tested positive for COVID-19 and for whom we have grave concerns about his health and treatment. [REDACTED] is the man referenced above who tested positive on December 6 and was removed from C unit. Mr. [REDACTED] is 69 years old and has black lung disease from three decades of working in [REDACTED] coal mines. He also suffers from diabetes, atrial fibrillation, and hypertension. We urge you to ensure that he receives appropriate monitoring and treatment while in medical isolation. His numerous medical conditions and his advanced age combined, according to the CDC, put him at serious risk for severe illness or death from COVID. He should be closely monitored by medical staff and provided with appropriate treatment, including removal to the local hospital as necessary, to ensure that he does not further deteriorate.

We are also concerned that another class member with numerous medical issues is not getting the treatment she requires because of issues in transferring her for outside consultations. [REDACTED] [REDACTED] has a history of cancer and has had two masses [REDACTED] since November of last year. These masses were confirmed by BOP medical staff in early 2020 and an outside consultation was scheduled in March. That consultation was cancelled because of the pandemic. However, since that date the masses have been growing and have spread to her [REDACTED], as confirmed by Dr. Greene. Dr. Greene has twice in the past couple of months scheduled Ms. [REDACTED] for an outside consultation with an oncologist—most recently for an appointment on 12/4—and both times Ms. [REDACTED] was not taken to these appointments, apparently because the facility neglected to arrange for her transport. Our understanding is that medical staff have indicated that she needs immediate biopsies to determine a course of treatment. We are seriously concerned that BOP is not able to provide Ms. [REDACTED] with the treatment that she needs and that she is potentially suffering from cancer that has now gone months without diagnosis because of the failure to arrange for her transfer to outside appointments. We request that arrangements be made for the outside consultation to be rescheduled immediately and for Ms. [REDACTED] to be transported to that appointment. Ms. [REDACTED] is currently under reconsideration for home confinement, and given her urgent medical needs, would be better able to obtain the medical care she needs in the community.

We look forward to hearing from you soon regarding these concerns.

Sincerely,

/s/ Sarah French Russell,

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