

Exhibit C

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

JAMES WHITTED, individually, and on	:	
behalf of all others similarly situated,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. No. 3:20 cv 569 (MPS)
	:	
DIANE EASTER, Warden of Federal	:	
Correctional Institution at Danbury, in her	:	
official capacity	:	
	:	
Respondent.	:	December 17, 2020

DECLARATION OF ALEXANDRA HARRINGTON

I, Alexandra Harrington, hereby declare pursuant to 28 U.S.C. § 1746:

1. I am an Associate Professor of Law at the University at Buffalo School of Law and Director of the School of Law’s Criminal Justice Advocacy Clinic. I am one of the attorneys who has been appointed Class Counsel in this case. (ECF No. 141, ¶ 7).

2. I submit this Declaration to provide the Court with information provided to Class Counsel by class members and other individuals incarcerated at the Federal Correctional Institution in Danbury, CT—as well as information from incarcerated individuals’ attorneys and loved ones—about the current situation at FCI Danbury.

3. Danbury is in the midst of another outbreak of COVID-19 amongst the incarcerated population. Before December 2, 2020, although the BOP website indicated that a few prisoners at the facility had tested positive for COVID-19, the United States Attorneys’ Office (USAO) represented to class counsel that these positive tests were for individuals being transferred in, and that the general population of the facility was COVID-19 free. The USAO also represented

to class counsel that the BOP was complying with its commitments set forth in its July 24, 2020 letter.

4. Unfortunately, individuals already imprisoned at Danbury received positive test results for COVID-19 on December 2, and now two weeks later the BOP website reflects 97 active cases among prisoners at the facility.¹ We have heard reports of over 100 positive tests.

Failure to Prevent or Mitigate the Outbreak through Temperature Checks and Symptom Screening

5. Before this most recent outbreak, reports from individuals at the men's facility and the FSL reflected that temperature checks were not occurring consistently, and that symptom screening was not occurring at all. In the Camp, before November, when temperatures were taken, they were taken by correctional staff. Medical staff began taking temperatures and conducting symptom screening on November 4, 2020 and this continued until November 23, although there were occasional missed days, typically on weekends. Temperature checks and symptom screenings did not occur at all between November 23 and December 7 in the Camp.² Temperature checks had not been conducted at FSL for over a week before the first women in that unit tested positive on December 6.³ Temperature checks in the men's units were being conducted via wall mounted thermometers in the dining hall, though men who decline to go to the dining hall were not screened.

Timeline of Recent Outbreak

FCI

6. On December 2, two men from FCI tested positive for COVID-19. One man was in C-

¹ <https://www.bop.gov/coronavirus/>.

² See Declaration of M.R., Dkt. 270-2, ¶ 3; Declaration of W.H., Dkt. 286, ¶ 3; Declaration of Shacarey James, Dkt. 279-3, ¶ 4.

³ See Declaration of M.M., Dkt. 287, ¶ 6.

unit and one was in J-unit. The rest of C-unit and J-unit were tested the same day. The man from C-unit had worked in the kitchen and shortly before had been housed in a different unit. Facility-wide testing was not conducted in the men's facility.

7. Other men in the units with the positive cases reported to medical that they had symptoms of COVID, including loss of taste/smell, coughing, and nausea. These men were left on the unit and not immediately quarantined or tested. Class counsel has heard reports that medical symptoms of COVID are not being treated at the facility.

8. One man, who is almost 70 years old, experienced symptoms of the disease for days before he was tested. He fainted while waiting for commissary on December 1 and was seen later that day by medical for complaints of a sore throat, cough, and difficulty breathing. He was returned to his unit and wasn't tested until after another man in his unit tested positive. He tested positive on December 6 and was moved to isolation.

9. As of December 7, there were positive COVID cases in at least three men's units.

10. Our understanding is that some units in the men's facility have still not been tested despite widespread infection in a number of the units. In particular, we have heard that E-unit, which houses many individuals who work in the kitchen, commissary, laundry, etc. has not been tested.

11. There are well more than 50 positive cases in the men's facility among at least four different units.

FSL

12. The first women in the FSL to test positive were tested on December 6 and, after receiving positive test results that day, were moved to isolation in the facility's visiting room. Other women who slept in the same or adjacent bunkbeds or who closely interacted with these

women were left on the unit with no other preventative measures taken to mitigate the spread of the disease.

13. One woman from the FSL reported to medical on December 6 complaining of chills and severe body aches. She was sent back to the unit overnight. On December 7 she was placed in the library. This is a room without heat or a bed. The woman was seriously ill and throwing up. She was given a small space heater but had nowhere to lie down or make herself comfortable. She later tested positive for COVID and was moved to isolation.⁴

14. The rest of the FSL was tested via PCR test on December 7. Beginning on Friday December 11, additional women were removed from FSL and placed in isolation. Although the women were not told specifically, they assumed these movements were due to the PCR test results coming back positive.

15. Women continue to be removed from the FSL for positive tests, including three women on December 15. These appear to be test results that came in over the weekend but were not acted on for days.

16. As of December 15, there were at least 23 women who had tested positive from FSL.

Camp

17. Although women from the Camp reported symptoms of COVID days before anyone from that unit was ever tested, they were not tested until December 7.⁵ Women who told staff about COVID symptoms before that date were told they wouldn't be tested unless they had a fever, because there weren't enough tests for everyone.

18. On December 7, four women from Camp received positive test results and were moved to isolation with the women from FSL. The rest of the Camp was not tested until the following

⁴ See Declaration of M.M., Dkt. 287, ¶ 3-4.

⁵ See Declaration of J.H., Dkt. 270,-1 ¶ 3.

day. On that day, December 8, an additional woman with a positive test and symptoms was removed from the dorm.

19. One woman in Camp is seven months pregnant. She had been sleeping within 3 feet from another woman who for several days had a fever, difficulty breathing, and a loud cough. The pregnant woman and others alerted staff on December 7 that the sick woman ought to be quarantined and tested. The pregnant woman sought at a minimum to be moved farther from the sick woman given her pregnancy. Staff refused to move either woman. On December 8, the sick woman tested positive for COVID and was removed from the unit. When she was removed, her property—including a food tray with scraps of food—was left on her bunk, without cleaning or sanitation.⁶

20. Counsel have heard that one woman from the Camp who was tested with everyone else on December 8 and who tested positive was only removed from Camp on December 16, more than a week after the test was taken and several days after test results had apparently been returned to the facility.

21. There are currently at least 15 positive cases in the Camp.

Poor Conditions of Confinement in Quarantine and Isolation

22. Individuals who have tested positive for COVID are being placed in non-housing settings throughout the prison. Women who have tested positive (either at the Camp or at the FSL) are currently being housed in the FSL visiting room, the FSL classrooms, and the FCI visiting room. These rooms are crowded. The women in the visiting room at the FSL share one makeshift shower. Men at the FCI who have tested positive are being housed in A-unit as well as in the gymnasium and in the auditorium that had been in disuse off for the past several months

⁶ See Declaration of Shacarey James, Dkt. 279-3, ¶ 3.

because of safety concerns. Because of the number of people who have tested positive, the facility is running out of space to isolate individuals who test positive and to quarantine people who are due to be released.

23. Individuals who are seriously medically vulnerable have tested positive for COVID-19. These include a 69-year-old man with lung disease, diabetes, atrial fibrillation, and hypertension; a 69-year-old woman who suffers from obesity and has a history of upper respiratory infections; a 65-year-old woman with uncontrolled hypertension; and a man with uncontrolled Type 1 diabetes who tested positive only after being taken to the hospital with a blood sugar level of 600.

24. In some of the isolation spaces there is no telephone for the individuals to communicate with anyone outside of the prison.

25. Class counsel have heard reports that staff is checking on individuals in isolation only once a day to take temperatures. One individual complained of chest pains and shortness of breath, and was told by staff to take tea because medical was closed. Symptomatic individuals are not having their oxygen levels checked, and, in one instance, a severely diabetic individual is not being provided with appropriate meals. At least one individual has been taken by ambulance from isolation to the hospital.⁷

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 17, 2020.

/s/ Alexandra Harrington
Alexandra Harrington

⁷ See Declaration of M.M., Dkt. 287, ¶ 7.