



United States Department of Justice

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July 24, 2020

Via E-Mail

David S. Golub, Esq.
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Re: *Martinez-Brooks et al. v. Easter et al.*, Case No. 3:20-cv-00569-MPS

Dear Attorney Golub:

On July 24, 2020, the Petitioners, who are class representatives of inmates at FCI Danbury, and the Respondent, Diane Easter, the Warden of FCI Danbury, entered into a Civil Settlement Agreement (“Settlement Agreement”) to resolve allegations made in *Martinez-Brooks et al. v. Easter et al.*, Case No. 3:20-cv-00569 (MPS).

Beyond the terms of the Settlement Agreement, Petitioners requested that the Bureau of Prisons (“BOP”) make certain assurances regarding actions being taken at FCI Danbury to meet the medical needs of inmates during the COVID-19 pandemic and to mitigate and control the spread of the virus. The BOP declares that the following actions are currently being performed at FCI Danbury and will continue to be performed at FCI Danbury for the time period that the Settlement Agreement remains in effect.

1. Inmates exhibiting symptoms indicative of a COVID-19 infection will be seen by a nurse or doctor the same day that the COVID-19 symptoms are reported by either the inmate or BOP personnel (or, for those reporting symptoms in the evening, the next morning).
2. Daily temperature checks of inmates will be conducted by a member of the medical staff or a lieutenant (or higher ranking staff member). During temperature checks, inmates will be asked a series of scripted questions designed to screen for COVID-19

symptoms.¹ These questions will be addressed to each housing unit at large. Logs of symptom and temperature screenings will be preserved.

3. Sick call slips will be collected on a daily basis. Sick call slips collected Monday through Friday will be triaged by a medical provider (nurse or doctor) that same day. Sick call slips submitted on a Saturday or Sunday will be triaged by a medical provider (paramedic or nurse) that same day. Sick call slips will be retained and scanned into the inmate's BEMR medical record. Sick call appointments and procedures will be conducted in accordance with BOP's Program Statement 6031.04, Patient Care. The U.S. Attorney's Office will contact FCI Danbury when counsel for Petitioners bring to their attention instances where counsel have a good faith basis to believe an individual's access to medical care has been delayed and that the individual is demonstrating COVID symptoms or is otherwise urgently in need of medical care.

4. Inmates exhibiting COVID-19 symptoms will be tested. The BOP will follow its current guidance on testing, including its now current guidance issued on June 19, 2020. If any inmate tests positive for COVID-19, all inmates housed within the COVID-19-positive inmate's housing unit will be tested.

5. Staffing at FCI Danbury will be commensurate with its classification as a Care Level 2 institution pursuant to BOP's Clinical Guidance. Currently, there are 18 of 25 medical staff positions filled. There are current certificates for one Advanced Practice Nurse position and one Medical Officer position. There are current postings for one Medication Technician position, one Staff Pharmacist position, and Clinical Nurse position. One Chief Pharmacist position is pending posting. One Nurse Practitioner will enter on duty effective July 16, 2020.

6. Medical rounds for wellness checks will be made daily in all isolation and quarantine spaces. On weekdays, the wellness checks will be performed by a doctor or nurse. On weekends, a paramedic may do the wellness checks if a nurse or doctor is not at the facility. FCI Danbury will continue to use its available space for quarantine and isolation purposes. This includes the Special Housing Unit ("SHU"). Inmates quarantined and/or isolated in the SHU will not be subject to punitive housing measures. Inmates quarantined and/or isolated in SHU for COVID-19 purposes will be eligible to receive the following benefits: commissary, use of computer and phone, and personal property will be available at times that do not disrupt the administrative needs necessary to accommodate the quarantine/isolation function. Additionally, reasonable restrictions on the amount of personal property allowed in the SHU isolation/quarantine unit may be imposed to prevent fire/safety hazards. Inmates quarantined and/or isolated in SHU for COVID-19 purposes will have access to appropriate bedding, showers suitable meals, and drinking water, as well as to mail and legal calls. While there is a BOP requirement that all inmates in the SHU be handcuffed while going to the showers, a waiver of

¹ Subject to a change in CDC guidance, inmates will be asked the following verbal screening questions: "Today or in the past 24 hours, have you had any of the following symptoms: Fever, felt feverish, or had chills? Cough? Difficulty breathing?" See Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities.

this requirement has been submitted to the Central Office for inmates isolated and/or quarantined in the SHU for COVID-19 purposes.

7. For the safety of inmates and the community, it is BOP policy that all inmates who are approved for home confinement or residential reentry center placement be quarantined for 14 days prior to release from FCI Danbury. Inmates may seek a waiver of the 14-day quarantine requirement before being released to home confinement. Decisions regarding this waiver request will be based on circumstances in existence at the time the waiver is sought.

8. The BOP recognizes there is a backlog of non-COVID-19-related, non-emergent outside medical care consultation requests due to the shutdown of medical care facilities in the community during the COVID-19 pandemic. In addition to the Program Statement on Patient Care (Number 6031.04), and the Institution Supplement (Number DAN 6031.01D), the BOP will employ the following practices to deal with the backlog:

- a. The Utilization Review Committee will continue to prioritize outside medical care consultation requests based on need.
- b. FCI Danbury will begin the use of telemedicine in order to assist with the backlog. In the future, FCI Danbury plans on employing telemedicine by video as well.
- c. Consistent with current practice, where practicable, FCI Danbury will bring specialists into the institution to deal with volume appointments within the same specialty.

FCI Danbury intends to keep the foregoing protocols in place for so long as the Settlement Agreement is in effect. The foregoing protocols may be suspended or modified in part or in their entirety if the Warden or her designees determine that a "genuine emergency" exists at FCI Danbury.² Moreover, FCI Danbury reserves the right to change the foregoing protocols based on significant operational needs or presently unforeseen events or conditions, including but not limited to substantial changes in established infection control practices or the standard of care for treatment of COVID-19 infection.

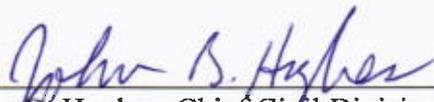
This letter is being provided to you for informational purposes only, and is not intended as any sort of consideration for, nor should it be construed as forming any part of, the Settlement Agreement.

² "Genuine emergency" means any special circumstances under which it is reasonable to conclude that there is any actual or potential threat to the security of FCI Danbury, or to the safety of the staff, prisoners or other persons within any one of the institution's facilities.

David Golub
July 24, 2020
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Very truly yours,

JOHN H. DURHAM
UNITED STATES ATTORNEY

A handwritten signature in blue ink, reading "John B. Hughes", written over a horizontal line.

John B. Hughes, Chief Civil Division
Assistant United States Attorney