

June 11, 2020

Michael Carvajal
Director
Federal Bureau of Prisons
320 First Street NW
Washington, DC 20534

Dear Director Carvajal:

On Tuesday, June 2, 2020, you testified before the Senate Committee on the Judiciary during a hearing entitled, “Examining Best Practices for Incarceration and Detention During COVID-19.” We were disappointed that you were unable to answer Senator Blumenthal’s fundamental questions about the Bureau of Prison’s (BOP) response to the COVID-19 outbreak at FCI Danbury during that hearing. Serving time or working inside a prison should not be a sentence to sickness or death. Your failure to answer questions both during the hearing and afterwards calls into question whether BOP is taking appropriate measures to protect inmates and correctional officers from this disease. That is why we are writing once again to seek a response to these important questions.

The Committee hearing was intended to address, in part, BOP’s response to the ongoing public health crisis caused by COVID-19. That crisis has not spared FCI Danbury, which Attorney General Barr, in his April 3, 2020 memorandum, specifically identified as a BOP facility “experiencing *significant* levels of infection.”¹ As of June 5, 2020, 98 inmates and 61 staff members at FCI Danbury have tested positive and one inmate has died.²

In letters that we sent to you on April 13, 2020 and May 1, 2020, we expressed our concerns that FCI Danbury will continue to be a hotspot for COVID-19, putting inmates, staff, and the greater community at risk. While you did not officially respond to these letters, we had hoped that your testimony before the Committee would address these concerns. Unfortunately, it did not.

During the Committee hearing, Senator Blumenthal asked specific questions about FCI Danbury, and in particular, BOP’s compliance with a temporary restraining order (TRO) issued by the District Court for the District of Connecticut in *Dianthe Martinez Brooks et al. v. D. Easter & Michael Carvajal* on May 12,³ including:

¹ Memorandum from Attorney General Barr on “Increasing Use of Home Confinement at Institutions Most Affected by COVID-19” to Bureau of Prisons Director Carvajal (April 3, 2020), <https://www.justice.gov/file/1266661/download> (emphasis added).

² COVID-19 Coronavirus, FED. BUREAU OF PRISONS, <https://www.bop.gov/coronavirus/> (last visited June 5, 2020).

³ No. 3:20-cv-00569 (MPS), 2020 U.S. Dist. LEXIS 83300 (D. Conn. May 12, 2020) [hereinafter May 12 TRO].

- **How many inmates at FCI Danbury have been screened to date for transfer to home confinement pursuant to the TRO?** In response, you stated, “I don’t have the exact number for any particular facility in front of me today.”⁴
- **Whether the court, as of Friday, May 29, had said that no inmates had been released and whether, in the two weeks since the TRO was issued, you thought some inmates should have been released?** In response, you stated, “I’m not familiar with that information at this point,” and made assurances that BOP had “reviewed all eligible and COVID-related cases.”⁵
- **If you knew whether FCI Danbury was in compliance with the TRO, including the court’s order that FCI Danbury eliminate “all requirements that [an] inmate [has] served some portion of his or her sentence to be eligible for placement on home confinement”?** In response, you stated, “I should ... and I’m sure someone on my staff knows,” and that BOP “utilize[d] [the time-served requirement] early on to triage,” but not that FCI Danbury had stopped using it.⁶

In your testimony, you repeatedly told Senator Blumenthal that you would “get” or “look into” the information that you did not know then. Sadly, BOP provided minimal additional information following your testimony, and failed to seriously address any of Senator Blumenthal’s questions. BOP stated that 314 “medically vulnerable” inmates had been reviewed per the TRO and that FCI Danbury had reviewed “about 351 inmates for home confinement placement” and “released 191 inmates.”⁷ BOP also responded that “the issue raised by . . . Senator [Blumenthal] is a matter pending litigation, as such as we cannot comment on the matter.”⁸

On June 3, Chairman Graham noted that, at the June 2 hearing, “[T]here were a lot of questions asked about COVID-19 and prisons,” and that he expected, “those will get answered—particularly, Senator Blumenthal’s questions about the [TRO].”⁹ We expect the same, and respectfully request that you respond to the following questions:

1. How many inmates at FCI Danbury have been reviewed for home confinement pursuant to the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)¹⁰ and the Attorney General’s April 3 memorandum? Of those inmates who have been reviewed for home confinement, how many have been referred to home confinement pursuant to these authorities? Of those inmates who have been referred for home confinement, how many have been released to home confinement also pursuant to these authorities?

⁴ *Examining Best Practices for Incarceration and Detention During COVID-19: Hearing Before the Comm. on the S. Comm. on the Judiciary*, 116th Cong. (2020), available at <https://www.judiciary.senate.gov/meetings/examining-best-practices-for-incarceration-and-detention-during-covid-19> [hereinafter *Examining Best Practices for Incarceration and Detention During COVID-19*].

⁵ *Id.*

⁶ *Id.*

⁷ Email from the Bureau of Prisons to the Senate Committee on the Judiciary from the Office of Legislative Affairs, Department of Justice (June 3, 2020).

⁸ *Id.*

⁹ *Examining Best Practices for Incarceration and Detention During COVID-19*, *supra* note 4.

¹⁰ Coronavirus, Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, § 12003(b)(2) (2020).

2. On May 29, 2020, the court noted that “more than two weeks after the [TRO] was entered, it appears that not one inmate has actually been released to home confinement pursuant to the Order.”¹¹ Is this correct?
3. Can you confirm whether FCI Danbury has, per the TRO, eliminated “all requirements that [an] inmate [has] served some portion of his or her sentence to be eligible for placement on home confinement”?¹² If not, please explain why not.

Thank you for your timely attention to this matter. We look forward to hearing your response no later than June 18, 2020.

Sincerely,



RICHARD BLUMENTHAL
United States Senate



CHRISTOPHER S. MURPHY
United States Senate

¹¹ Martinez-Brooks v. Easter, No. 3:20-cv-00569 (MPS), 2020 U.S. Dist. LEXIS 94038, at *2 (D. Conn. May 29, 2020).

¹² May 12 TRO, *supra* note 3.