

March 27, 2020

**VIA E-MAIL KHYLE@BOP.GOV
AND USPS FIRST CLASS MAIL**

U.S. Department of Justice
Federal Bureau of Prisons
Office of General Counsel
320 First Street, NW, Room 958
Attention: Ken Hyle, Senior Deputy General Counsel

Re: Joint Request by Union County Board of Commissioners, Evangelical Community Hospital, and Geisinger

Dear Mr. Hyle:

Recent media accounts have indicated that the Federal Bureau of Prisons (“BOP”) has been transporting, and intends to transfer, out-of-state inmates to USP Lewisburg and FCC Allenwood during the current Pennsylvania State of Emergency.¹ Both facilities are located within Union County, Pennsylvania.

The requests contained in this letter are collectively made by the Union County Board of Commissioners (“Union County”), Evangelical Community Hospital (“Evan”), and Geisinger, all of whom are interested in the aforementioned inmate transfers into Union County and request further information regarding the same.

Pursuant to 18 USCS §3621, BOP has an affirmative obligation to ensure local health service providers are consulted with regarding an inmate’s health. Given the worldwide pandemic presented by COVID-19, all health care providers must be diligent with their available resources. Therefore, Evan and Geisinger desire to ensure they can provide the requested level of care, with the resources they have available, as it pertains to COVID-potential and COVID-positive inmates.

Union County, located in a fairly rural section of Pennsylvania, is concerned for the health, safety, and welfare of its constituents, of which a considerable number are employed at USP Lewisburg, FCC Allenwood, Geisinger and Evan. Evan and Geisinger are health care systems and providers in Union County. They are made up of and serving the same constituents, and are concerned about how such inmate transfers implicate their resources and capacity to handle a possible large-scale outbreak at either BOP facility.

¹. See (a) <https://abcnews.go.com/Health/warnings-bureau-prisons-transporting-inmates-sources/story?id=69747416>; (b) <https://www.pennlive.com/coronavirus/2020/03/one-of-32-federal-inmates-transferred-to-allenwood-complex-tested-for-coronavirus.html>; (c) <https://www.wnep.com/article/news/local/union-county/federal-prisoners-allenwood-lewisburg-canaan-coronavirus/523-75554e2b-0d63-4855-9cfe-e4b954184254>; (d) <https://www.sungazette.com/news/top-news/2020/03/covid-19-hot-zone-federal-inmates-may-be-transferred-lodged-locally/>; and (e) https://www.dailyitem.com/news/oklahoma-city-inmate-transferred-to-valley-tested-for-covid/article_95590820-6e20-11ea-a9b3-a709098e6fb0.html.

On March 18, 2020, Pennsylvania's Governor, Tom Wolf, ordered all non-life sustaining businesses in Pennsylvania to close their doors. Therefore, our residents are undertaking their best efforts to avoid the spread and transmission of COVID-19; yet, the transfer of out-of-state inmates to USP Lewisburg or FCC Allenwood presents a risk and concern beyond our control, and we are alarmed if media reports are accurate.

We have reached out to local BOP leadership to request information and to coordinate possible planning and responses. We have received no response to our inquiries. Accordingly, we write to first confirm whether the transfer of out-of-state inmates with COVID-19 symptoms has occurred or is planned. If there is any merit to the reports, we request additional information, including (i) since March 1, 2020 to current, the transfer date and inmate number of each out-of-state inmate transferred to USP Lewisburg or FCC Allenwood; (ii) the originating penitentiary system of all such inmates; and (iii) assurance that all such inmates transferred since March 1, 2020 were screened in accordance with your existing Operating Policy (outlined below) and that none of those inmates expressed COVID-19 symptoms.

The publicly available Operating Policy for BOP, developed in response to the COVID-19 outbreak, provides for a general 30-day suspension on internal inmate movements. It also established screening procedures to be undertaken before any inmate is transferred, including an exit screening prior to transfer to ensure that the inmate is not expressing any COVID-19 symptoms.² We understand if an inmate was symptomatic, no such transfer would be effectuated to USP Lewisburg or FCC Allenwood.

However, the aforementioned media reports suggest a possible transfer inconsistent with this Operating Policy. While the inmate may have been asymptomatic prior to transfer and his condition may ultimately not be COVID-19, it would be best if our community and health systems were able to coordinate with the BOP in anticipation of a potential outbreak. We are interested in how any out-of-state inmate transfers to Union County will affect our residents and neighbors, along with ensuring such transfers will not overwhelm our health care systems. We would also appreciate timely updates from you in advance of any change to your existing Operating Policy on inmate transfers.

We believe that communication and cooperation are the best means of supporting our mutual interests. We have no desire to engage in litigation if that can be avoided but we face a significant threat to our communities should an outbreak occur at the local BOP facilities.

². See https://www.bop.gov/coronavirus/covid19_status.jsp ("Perform an exit screening for COVID-19 symptoms (fever, cough, shortness of breath and temperature). (a) If the inmate has no symptoms and a temperature less than 100.4 degrees F, the inmate will be transferred; (b) If the inmate has COVID-19 symptoms, or temperature greater than 100.4 degrees F, they will not be transferred and will instead be immediately placed in isolation.")

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Consequently, we believe it is essential that that our organizations collectively understand the application of the BOP's Operating Policy on COVID-19 to USP Lewisburg and FCC Allenwood. We also request to be advised as to any prospective transfers of out-of-state inmates into those facilities and the precautionary processes being utilized there to protect personnel and other inmates.

As our efforts to-date to contact and receive updates from the staff and wardens at USP Lewisburg and FCC Allenwood have failed to garner a reply, this letter serves as a request to you for the information outlined herein so that we can de-escalate growing tensions and possible litigation. Additionally, we request a point of contact within the BOP whom we can work with moving forward to receive timely updates and coordinate efforts.

We appreciate your attention to this letter, and we look forward to an open line of communication relative to inmates with COVID-19 and transfers to USP Lewisburg or FCC Allenwood.

Sincerely,

UNION COUNTY BOARD OF COMMISSIONERS

Two blue ink signatures are present. The first signature is a cursive 'J' followed by 'L. DeWald'. The second signature is a more complex cursive signature, likely 'Jonathan L. DeWald'.

Solicitor for the Union County Board of Commissioners
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EVANGELICAL COMMUNITY HOSPITAL

A handwritten signature in black ink that reads 'Mark M. Van Blargan'.

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GEISINGER



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cc: Union County Board of Commissioners
Kendra Aucker, President/CEO of Evangelical Community Hospital
Jaewon Ryu, MD, President/CEO of Geisinger
U.S. Senator Patrick Toomey (PA)
U.S. Senator Robert Casey (PA)
U.S. Representative Fred Keller (PA-12th)

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