

Congress of the United States
Washington, DC 20515

June 13, 2024

Colette Peters
Director
Federal Bureau of Prisons
U.S. Department of Justice
320 First St., NW
Washington, D.C. 20534

Dear Director Peters:

We write to express our concerns regarding the recent closure and transfer of adults in custody (AICs) from the Bureau of Prisons (BOP) facility Federal Correctional Institution (FCI) Dublin. To ensure that the constitutional rights of AICs are not further violated and that oversight into the abuses at the facility continues in earnest, we request information about BOP's plans to close the facility and the oversight of that process, and your agency's efforts to investigate staff-on-AIC abuses at FCI Dublin and other federal BOP facilities.

In the weeks since BOP announced the closure of FCI Dublin on April 15, we have heard from former AICs who were recently released, family of AICs who have since been transferred from FCI Dublin, and advocates—all of whom have told us about shocking abuses that allegedly took place during the mass AIC transfers. The alleged abuses, some of which are described in the Temporary Restraining Order filed on April 19, include whistleblower retaliation, inhumane treatment, and withholding of necessary medical care. These abuses have also been widely reported in the press.¹ This level of disregard for human dignity cannot be tolerated. Additionally, the frantic nature of the closure of FCI Dublin reflects a lack of adequate planning and proper safeguards to protect the rights of AICs. To facilitate necessary oversight over this situation, we request responses to the below questions:

1. Will BOP commit to preserving all videotapes made in the days leading up to and after the prison's closure?
2. On a call with Congressman DeSaulnier and a representative from Senator Laphonza Butler's office on April 17, you stated that the decision had been in the works for some time, but that it was officially triggered a few weeks prior. On what date was the decision to close FCI Dublin on April 15 made? Who was involved in making that decision? Please provide any documents to confirm.

¹ Sam Levin, "US Federal Women's Prison Plagued by Rampant Staff Sexual Abuse to Close," The Guardian, April 15, 2024, <https://www.theguardian.com/us-news/2024/apr/15/california-womens-prison-closing-sexual-abuse>; Ericka Cruz Guevarra et al., "Infamous Women's Prison Plagued by Sex Abuse Closes," KQED, April 17, 2024, <https://www.kqed.org/news/11983151/infamous-womens-prison-plagued-by-sex-abuse-closes>; Lisa Fernandez and Cristina Rendon, "Powerless in Prison: The Shutdown of FCI Dublin," KTVU FOX 2, May 5, 2024, <https://www.ktvu.com/news/powerless-in-prison-the-shutdown-of-fci-dublin>; Lisa Fernandez, "FCI Dublin Transfers Complain of Poor Treatment, Retaliation at Other Prisons," KTVU FOX 2, May 7, 2024, <https://www.ktvu.com/news/fci-dublin-transfers-complain-of-poor-treatment-retaliation-at-other-prisons>

3. How did U.S. District Court Judge Gonzalez Rogers's March 15 order and the appointment of Special Master Still factor into the decision to close FCI Dublin?
4. In her May 8 order, Judge Gonzalez Rogers noted that the closure announcement was buried in the body of a sealed attachment to an administrative motion from April 12. Is this pleading the only way that BOP notified Judge Gonzalez Rogers of the impending closure of FCI Dublin?
5. What steps were taken to screen for histories of misconduct among the temporary staff BOP brought to FCI Dublin to facilitate the transfer of AICs?
6. Did BOP evaluate every AIC's eligibility for early release or release to community placements (including through good time credits, First Step Act credits, and the Second Chance Act) before designating them to another facility?
 - a. How many AICs were released early or released to community placements from FCI Dublin, instead of being transferred to other institutions?
 - b. Of those, how many were designated for transfer by BOP prior to review by the Special Master, as ordered by Judge Gonzalez Rogers?
 - c. What steps is BOP taking to evaluate individuals transferred from FCI Dublin to other facilities for possible release or community placements?
 - d. Former Dublin AICs, their loved ones, and advocates report that FCI Dublin staff were not appropriately considering and referring eligible noncitizens for release to community placements under the FSA, and that staff at other facilities are not applying FSA credits or referrals to community placements for eligible noncitizens. Has BOP received similar reports, and, if so, what is BOP doing to address these issues?
7. Did BOP consider all pending compassionate release requests prior to designating AICs for transfer?
 - a. In her May 8 order, Judge Gonzalez Rogers notes that FCI Dublin's processing of compassionate release requests was "woefully inadequate," and that the Special Master determined that "[m]any requests were lost (despite having been properly submitted, or not tracked, let alone adjudicated.)" What steps is BOP taking to address these deficiencies and ensure that people transferred from FCI Dublin have the opportunity to apply for compassionate release moving forward?
 - b. BOP's Program Statement on compassionate release, 5050.50, has not been updated to reflect the Sentencing Commission's 2023 policy statement, recognizing victims of abuse and certain medical or family circumstances as grounds for a reduced sentence.² These are two grounds that may be applicable to many people transferred from FCI Dublin. When will BOP update its program statement, and, in the interim, what is BOP doing to ensure that people are aware of their rights under the Sentencing Commission's policy statement?
8. How did BOP evaluate every AIC's medical needs before designating them for transfer?
 - a. Numerous AICs have reported that they were transported without appropriate medical clearance or care. Many also report that they were denied medications throughout the transport process, or were shackled despite injuries or disabilities and against medical advice. What steps has BOP taken to address these concerns? How will staff be held accountable for these violations?

² "Adopted Amendments (Effective November 1, 2023)," United States Sentencing Commission, October 24, 2023, <https://www.ussc.gov/guidelines/amendments/adopted-amendments-effective-november-1-2023>.

9. In your May 17 letter to members of the Senate Judiciary Committee, your office referenced steps that BOP took to ensure personal property was inventoried and packed. Please detail those steps.
10. Why were dozens of AICs transferred from FCI Dublin, a low and minimum security prison, to administrative detention centers—pretrial facilities with little to no programming, work opportunities, video visitation, and time outdoors? What steps is BOP taking to ensure that people transferred from FCI Dublin are housed in appropriate, post-conviction facilities?
11. What efforts were made to ensure that other BOP facilities had capacity to receive AICs transferred from FCI Dublin?
 - a. Please provide the following information about all facilities to which AICs from FCI Dublin were transferred: bed space, staffing levels (including medical and mental health staff), wait times for medical and mental healthcare appointments, availability and wait times for programming, and information about all reports of staff sexual misconduct in the last two years.
12. What efforts were made to remain in compliance with Judge Gonzalez Rogers's orders³ while assessing the closure?
13. Will you commit to developing a process to ensure that active duty staff who are not under investigation for misconduct and were working at FCI Dublin at the time of its closure continue to be paid their regular rate until an assessment is made as to whether FCI Dublin will reopen, and are given BOP support to identify other work opportunities within the federal government or state or local law enforcement?
14. What is your agency's timeline for evaluating FCI Dublin for whether it will continue to operate as a BOP facility that houses AICs?

Further, as you know, there has been a tragic and unacceptable history of long-term abuse of AICs at FCI Dublin. Up until weeks before the closure of FCI Dublin, BOP leadership and their counsel repeatedly asserted that conditions and care at FCI Dublin were constitutionally adequate, and repeatedly denied allegations of staff misconduct and retaliation. On April 5, Judge Gonzalez Rogers appointed Special Master Wendy Still, the first such appointment in the history of federal prisons in the United States, to oversee FCI Dublin's compliance with federal law and constitutional requirements. We share a belief in the importance of Special Master Still's mandate and are concerned that the closure of the prison will delay or deny much-needed accountability. We request that you respond to the below questions and ensure that steps are being taken so that toxic cultures, like the one that developed at FCI Dublin, are not allowed to fester at other facilities.

³ <https://rbgg.com/wp-content/uploads/Order-re-Closure-of-FCI-Dublin-Preliminary-Injunction-05-08-24.pdf>; <https://rbgg.com/courts-order-re-fci-dublin-details-issues-with-ill-conceived-closure-plan/>; <https://rbgg.com/wp-content/uploads/Order-re-Closure-of-FCI-Dublin-Preliminary-Injunction-05-08-24.pdf>; <https://rbgg.com/wp-content/uploads/Attachment-Class-Counsel-05-08-24.pdf>; <https://rbgg.com/fci-special-master/>; <https://rbgg.wpengine.com/survivors-of-sexual-violence-by-prison-officials-at-fci-dublin-file-class-action-lawsuit/>; <https://static1.squarespace.com/static/64a5d4d138199b2c7c48c3de/t/661599d5644e0750c8dc5cc1/1712691669796/ECF+248+Order+re+Special+Master.pdf>; <https://static1.squarespace.com/static/64a5d4d138199b2c7c48c3de/t/66229172a66857586fec860f/1713541490429/ECF+262+-+Mx+for+TRO.pdf>;

1. In your May 17 letter to members of the Senate Judiciary Committee you said that “[d]espite these resources, we determined FCI Dublin was not meeting the standard we set, and the best course of action was to temporarily close the facility.”
2. Has BOP complied with all orders issued by Judge Gonzalez Rogers?
3. Has BOP destroyed any documents related to allegations of abuse or retaliation at FCI Dublin?
4. Will BOP commit to preserving all documents and communications related to abuse, retaliation, and other criminality at FCI Dublin?
5. Will BOP commit to working with the U.S. Department of Justice Office of the Inspector General on any current and future investigations into abuse and misconduct at FCI Dublin?
6. Will BOP consider implementing reforms highlighted by the ongoing class-action lawsuit against FCI Dublin?
 - a. Requested reforms include: 1) confidential third party reporting mechanism for misconduct; 2) access to counsel including a regularly available unmonitored phone line; 3) the availability of high quality, non-BOP/offsite medical and mental health care; 4) reforms to the use of solitary confinement or segregation including a prohibition on use against those who allege staff sexual assault and a prohibition on placement during the pendency of investigations; and 5) policy to certify U-visas and more readily approve compassionate release for victims of sexual misconduct.
7. Has BOP investigated the role of Regional Director Rios-Marques in the culture of abuse at FCI Dublin, including her selection of a succession of wardens who have been at best ineffective and at worst complicit in retaliation and intimidation?
8. Was Regional Director Rios-Marques following BOP policy when she refused to advise Special Master Still of the impending closure, which would begin the next day, even when asked directly on April 14?
9. Have you made any changes to policies, practices, or customs BOP-wide following the revelation of the sexual misconduct and failing infrastructure at Dublin?
10. What rules and procedures will BOP put in place to ensure that cultures of abuse are not permitted to develop at other facilities?

We respectfully request answers to the above questions by Wednesday, July 10. Thank you for your attention to this important matter.

Sincerely,



Mark DeSaulnier
Member of Congress



Laphonza Butler
United States Senator



Richard J. Durbin
United States Senator



Barbara Lee
Member of Congress



Robert C. "Bobby" Scott
Member of Congress



Sydney Kamlager-Dove
Member of Congress



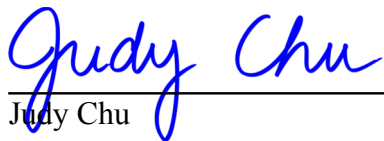
Eric Swalwell
Member of Congress



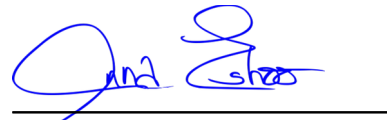
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Member of Congress



John Garamendi
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Judy Chu
Member of Congress



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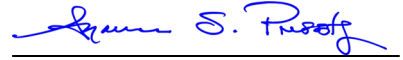
Zoe Lofgren
Member of Congress



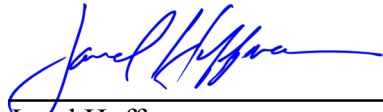
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