

Congress of the United States
Washington, DC 20515

April 10, 2020

The Honorable Michael Carvajal
Director
Federal Bureau of Prisons
320 First Street, NW
Washington, D.C. 20534

Dear Director Carvajal:

During a time when our country is taking unprecedented and extraordinary actions to respond to and help slow the spread of the highly-infectious novel coronavirus (COVID-19), we write to express our strongest opposition to the decisions by the U.S. Bureau of Prisons (BOP) to not only close the Taft Correctional Institution (TCI) while repairs to buildings on its campus are made, but also to pursue the continued transfer of hundreds of inmates from this institution to other BOP facilities around the nation. These actions unnecessarily risk exacerbating the potential spread of this virus to inmates and staff throughout the federal prison system.

Inmate Transfers from the TCI

As you know, federal, state, and local public health officials have stressed the need to adopt measures to help minimize the spread of COVID-19. The Centers for Disease Control and Prevention indicates that some people without symptoms may be able to spread this virus and recommends at least six feet of physical separation between individuals. On March 31, 2020, the White House Coronavirus Task Force announced pursuit of a “30 Days to Slow the Spread” campaign that specifically advises individuals to avoid discretionary travel and limit gatherings of more than 10 people. On March 19, 2020, the California Governor issued a statewide stay-at-home order until further notice. Further, your directive to implement Phase 5 of the Bureau’s COVID-19 Action Plan, effective April 1, 2020, limits inmate movement and confines inmates in every BOP institution to their living quarters for 14 days. Shockingly, BOP officials indicated that this directive does not apply to all of its facilities, like the TCI.

The BOP’s decision to continue with the mass transfer of inmates, sometimes over 40 inmates on a bus, from the TCI to other facilities around the country clearly and directly contradicts guidance from federal, state, and local authorities, as well as your own recent directive. These actions are unnecessarily putting inmates and staff at the TCI, the broader community of Taft, and other inmates and staff in the federal prison system at risk of not only contracting COVID-19, but also further spreading this virus. Accordingly, for the safety and health of our constituents and all Americans, we request that BOP reassess this flawed decision and immediately cease all inmate transfers from the TCI during this pandemic. Furthermore, we request a response to the following questions by Friday, April 17, 2020:

- (1) What rationale does the BOP rely on to justify the movement of hundreds of inmates out of the TCI that contradicts federal, state, and local public health official

directives, as well as your April 1st directive designed to minimize the spread of COVID-19?

- (2) Why does Phase 5 of the BOP's COVID-19 Action Plan not apply to government-owned, privately-operated facilities that house inmates for the BOP?
- (3) Do inmates at privately-operated, BOP-owned institutions not deserve the same level of protection as those housed at BOP-owned and operated institutions?

Decision to Close the TCI During Repairs

Last month, the BOP finalized a report, the Facility Assessment Report, CI Taft, California (JCCES 1930-01), that investigated different approaches to fixing any structural deficiencies at the TCI, including keeping the facility operational. This Facility Assessment Report identified three options related to making repairs at the TCI. These include:

- (1) Keeping the TCI at full inmate capacity during repair work;
- (2) Reducing the TCI inmate population to 50% capacity during repair work; and,
- (3) Removing all inmates and staff from the TCI (i.e. closing the facility) during repair work.

Most buildings at the TCI are in sound shape and a July 12, 2019 report commissioned by the BOP on the TCI concluded all buildings on the campus “appear to be in generally good condition from an architectural standpoint,” except for three, which the operator of the TCI has already closed off. In addition, the 2019 report contemplates repurposing buildings at the TCI as “swing space” for inmates and staff as repairs are made – a clear indication that even in this report, repairs could be made on the TCI campus while inmates and staff continued to remain present.

We strongly oppose the decision to close the TCI during repairs, especially since the March 2020 report contemplates two other options that would keep the facility operational and maintain jobs for over 300 of our constituents who are ardently supporting and executing the mission of the BOP. While we understand and support ensuring the health and safety of our constituents who work at the TCI and the inmates housed there, the BOP's continued insistence that buildings at the TCI pose an imminent life safety threat rings hollow in the face of both the 2019 and 2020 reports and recommendations included therein.

Therefore, we strongly oppose the BOP completely closing the TCI while repairs are made and urge the BOP to implement, at the very least, the 50% inmate capacity option included in the March 2020 Facility Assessment Report. Furthermore, we request a detailed, written explanation of why the BOP, contrary to both the 2019 and 2020 reports, is moving ahead with shuttering this facility during repair work and refuses to entertain either option from the March 2020 report that would keep the facility functioning.

TCI Repair Request History

Our constituents have informed us that the BOP has been aware of structural issues with some of the buildings at the TCI for over 10 years. This is reflected by the Bureau's decision to install crack monitors nearly 6 years ago, to further study, but not repair, the deficiencies and alleged degradation of some of the buildings. Furthermore, the operator of the TCI has informed us of multiple repair funding requests submitted to the BOP regional office over the past several years, only to have these requests declined. The July 2019 report indicated that some of the structural issues identified at the TCI were exacerbated and likely a direct result of failure to address issues that previous repair requests sought to resolve.

This can only mean that either the BOP willingly and knowingly subjected our constituents and the inmates at the TCI to imminent life safety threats for at least 10 years by not seeking TCI-specific repair funding from Congress or repurposing existing BOP funds to this facility, or that the TCI does not represent an imminent life safety threat to our constituents and inmates as the BOP claims, calling into question the decision to remove all inmates from this facility.

Therefore, given the BOP was aware of the structural concerns for over 10 years, repeatedly declined repair funding requests from the operator of the TCI, failed to include relevant information in the annual BOP budget justifications to Congress regarding repairs needed at the TCI, and made no any effort to inform us of these issues until October 1, 2019 when the BOP suddenly – without any notice – announced imminent closure, we request the following:

- (1) A comprehensive list of all repair funding considered or funding requests submitted to the BOP regional or headquarters offices for repairs at TCI over the last 10 years;
- (2) A detailed list of all repair funding requests submitted to the BOP, at any level, that were denied; and,
- (3) A detailed justification for each repair funding request submitted to the BOP that was denied and who declined the request.

Conclusion

The continued mass transfer of inmates out of the TCI—including over 250 inmates just last week alone—when our nation is taking drastic steps to contain COVID-19 seriously calls into question the BOP's judgement, rationale, and motivations regarding this facility. Also, the BOP's decision to completely close this facility during repair work when there are at least two other alternative options – including to keep the facility at 50% inmate capacity during this work – raises questions about the intent behind the Bureau's actions. It also remains unclear to us that this BOP concern is outweighed by the liability the Bureau will incur by transferring hundreds of inmates and potentially exposing them and staff to the highly infectious COVID-19. Attached is correspondence from the Kern County Board of Supervisors also seeking clarification to the Bureau's decision to move inmates out of the TCI during this public health emergency.

Since first being alerted to this unilateral decision by the BOP on October 1, 2019, we have worked with BOP staff to address concerns that you have raised – which culminated in the second report commissioned by the BOP and our work to provide additional funding for BOP’s maintenance and repair budget in the appropriations bill that was signed into law in December 2019. The second report validated that options exist to keep the facility open while repairs are made, congressional funding was increased so that the BOP could address repairs to this and other facilities without robbing Peter to pay Paul, and congressional intent was clear that BOP should not close facilities like TCI. Given the timing of these abrupt decisions by the BOP during this coronavirus pandemic, which appear contrary to the conclusions and options laid out in the BOP reports and belie the fulfillment of additional funding needs in this and future fiscal years that the BOP shared with Congress, we, along with our constituents in Taft can only conclude that BOP’s continued actions a breach in the good faith that we expected from the BOP with respect to this facility. The Bureau of Prisons – not Congress – ultimately has the authority to administer federal prison laws including the operation of its facilities, but ultimately Congress has the oversight authority and the power of the purse to ensure fair compliance with the law.

Accordingly, we demand that the BOP immediately stop removing inmates from the TCI during the COVID-19 pandemic and keep the TCI at 50% inmate capacity while repairs to campus buildings are made. We look forward to your timely response to this letter. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Kevin McCarthy" with a stylized flourish at the end.

KEVIN McCARTHY
House Republican Leader

A handwritten signature in blue ink that reads "Dianne Feinstein" with a stylized flourish at the end.

DIANNE FEINSTEIN
United States Senator