

# United States Senate

WASHINGTON, DC 20510

March 18, 2021

Inspector General Michael E. Horowitz  
Office of the Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Mr. Horowitz:

We are writing to urge your office to conduct a comprehensive review of all coronavirus disease 2019 (COVID-19) related deaths of incarcerated individuals in the custody of the Federal Bureau of Prisons (BOP) and BOP staff since the start of the COVID-19 pandemic.

At the time of writing, BOP has in its custody 125,301 individuals housed in BOP-managed institutions and 13,623 individuals in community-based facilities.<sup>1</sup> Additionally, BOP is responsible for the safety of around 36,000 staff members working in facilities across the United States. Since the beginning of the pandemic, 225 incarcerated individuals in BOP's custody have died as a result of COVID-19, and 4 BOP staff members have died from the virus.<sup>2</sup>

Although BOP investigates each case involving the death of an individual in their custody, these one-off reviews of each individual COVID-19-related death may not be sufficient to determine system-wide failures in care across the entire federal prison system. For that reason, it is critical that a meticulous and comprehensive external review of all COVID-19-related deaths within BOP be conducted. A comprehensive review would not only provide a full accounting of the circumstances surrounding each individual loss of life but would also help policymakers establish whether the appropriate BOP policies were in place and being followed in each case, as well as whether new policies or practices should be implemented to reduce risk during the current pandemic and to prevent similar outbreaks in the future.

A recent investigation ordered by The United States District Court for the Central District of California into BOP's handling of the COVID-19 outbreak at FCI Lompoc in Lompoc, California found that deficient care from BOP played a part in the four COVID-19-related

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<sup>1</sup> The Federal Bureau of Prisons, "COVID-19 Coronavirus," Accessed March 18, 2021, <https://www.bop.gov/coronavirus/>.

<sup>2</sup> *Id.*

inmate deaths at the facility.<sup>3</sup> Among other issues, the report found that “the COVID-19 response at BOP Lompoc is characterized by some evidence-based strategies being superimposed on a grossly inadequate system of health care.”<sup>4</sup> The report also found that the BOP’s internal mortality reviews, as well as the external reviews that BOP had contracted out, can be cursory, and in some cases, failed to identify notable deficiencies in care that were relevant to the deaths in the facility.<sup>5</sup>

Although your office has done and continues to do several important investigations related to COVID-19 in the federal prison system, including facility inspections and reviews of BOP-managed facilities, BOP’s contract facilities, and BOP’s contract Residential Reentry Centers, at the time of writing, more than a year into this deadly pandemic, no comprehensive review of all BOP’s COVID-19 fatalities has been conducted by your office or any other independent body.<sup>6</sup>

For these reasons, we urge you to initiate a comprehensive review of the COVID-19-related deaths of incarcerated individuals in BOP custody and BOP staff since the start of the pandemic. Additionally, we urge you to include the following questions in that review:

1. Did incarcerated individuals in BOP’s custody that died as a result of COVID-19 receive timely and sufficient care based on the policies BOP had in place when they became ill?
2. Were delays or deficiencies in care contributing factors to any of the COVID-19-related deaths in BOP custody? If so, how many?
3. Are any patterns or systemic concerns identifiable across the totality of COVID-19-related deaths in BOP custody? This may include but is not limited to the following:
  - a. demographic patterns related to race, ethnicity, age, or sex (including sexual orientation and gender identity);
  - b. patterns related to behavioral health status, pre-existing health conditions, and physical disabilities;
  - c. patterns related to the facility type or location where the incarcerated individuals were being held; or
  - d. patterns related to staffing, including augmentation, or other facility characteristics.
4. Has BOP reported all COVID-19 related deaths of individuals in its custody and BOP staff? Were there any additional deaths of incarcerated individuals or BOP staff during the pandemic that may have been related to COVID-19, but were not reported as COVID-19 deaths?

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<sup>3</sup> The Lompoc Record, “Venters Report - COVID-19 Inspection of BOP Lompoc by Dr. Homer Venters,” Page 18, September 29, 2020, [https://lompocrecord.com/venters-report/pdf\\_df325d91-1e1d-5fc6-b1e4-c6b9c16fd1ed.html](https://lompocrecord.com/venters-report/pdf_df325d91-1e1d-5fc6-b1e4-c6b9c16fd1ed.html).

<sup>4</sup> *Id.*, Page 28.

<sup>5</sup> *Id.*, Page 18.

<sup>6</sup> The U.S. Department of Justice Office of the Inspector General, “COVID-19 Reports,” Accessed February 22, 2021, <https://oig.justice.gov/reports/pandemic>; The U.S. Department of Justice Office of the Inspector General, “COVID-19 “Ongoing Work,” Accessed February 22, 2021, <https://oig.justice.gov/ongoing-work/pandemic>.

5. Were incarcerated individuals who died from COVID-19 in BOP custody eligible for early release under any of BOP's programs? If so, how many?
6. In instances of COVID-19 deaths, were there any breaches of COVID-19 mitigation policies, such as failure to properly quarantine or isolate individuals?
7. Are there any changes to BOP's policies or practices that should be implemented to help prevent further spread of COVID-19 and additional deaths related to COVID-19 in BOP facilities?
8. How do past and current BOP practices related to pandemic management, particularly in facilities where COVID-19-related deaths occurred, compare to Centers for Disease Control and Prevention guidelines?
9. What broader, structural changes to BOP's health care system are needed to prevent and manage similar disease outbreaks in the future?

Thank you for your attention to this matter.

Sincerely,

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/s/  
Elizabeth Warren  
United States Senator

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/s/  
Cory A. Booker  
United States Senator

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/s/  
Richard J. Durbin  
United States Senator

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/s/  
Richard Blumenthal  
United States Senator

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Robert Menendez  
United States Senator

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Tina Smith  
United States Senator

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/s/  
Sheldon Whitehouse  
United States Senator

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Mazie K. Hirono  
United States Senator

\_\_\_\_\_/s/  
Edward J. Markey  
United States Senator

\_\_\_\_\_/s/  
Chris Van Hollen  
United States Senator

\_\_\_\_\_/s/  
Tammy Duckworth  
United States Senator

\_\_\_\_\_/s/  
Raphael Warnock  
United States Senator

\_\_\_\_\_/s/  
Amy Klobuchar  
United States Senator

\_\_\_\_\_/s/  
Robert P. Casey, Jr.  
United States Senator

\_\_\_\_\_/s/  
Sherrod Brown  
United States Senator

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Tammy Baldwin  
United States Senator

\_\_\_\_\_/s/  
Alex Padilla  
United States Senator

\_\_\_\_\_/s/  
Bernard Sanders  
United States Senator

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Jeffrey A. Merkley  
United States Senator

\_\_\_\_\_/s/  
Kirsten Gillibrand  
United States Senator

\_\_\_\_\_/s/  
Ron Wyden  
United States Senator

\_\_\_\_\_/s/  
Brian Schatz  
United States Senator