

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

DIANTHE MARTINEZ-BROOKS,	:	
REJEANNE COLLIER, and JACKIE	:	
MADORE,	:	
Individually, and on behalf of all others	:	
similarly situated,	:	
	:	
Petitioners,	:	
	:	
v.	:	No. 3:20-cv-569 (MPS)
	:	
D. EASTER, Warden of Federal	:	
Correctional Institute at Danbury,	:	
	:	
	:	
Respondent.	:	June 8, 2020

**PETITIONERS' MOTION FOR SANCTIONS**  
**AND SUPPORTING MEMORANDUM OF LAW**

One of the basic tenets of litigating fairly is that parties preserve relevant evidence. Violation of this norm is so contrary to our judicial system that it permits district courts -- pursuant to their inherent power to oversee the judicial process -- to employ a variety of sanctions against the violating party when appropriate. That is the case here. Respondent has an ongoing obligation to keep medical records, which include requests for medical care, and she was clearly on notice of her duty to preserve all medical records by the time this action was filed. Despite her ongoing obligation and being on notice of the relevance of all medical records in this case, Respondent's practice *up until last week* was to *destroy* requests for medical care (called "sick call" requests). Petitioners respectfully move this Court for sanctions. Specifically, for the reasons stated below and based on the evidence in this case, Petitioners move for entry of an Order precluding Respondent from disputing that FCI Danbury's system for responding to sick calls requests was inadequate and untimely to provide proper medical care to inmates.

## I. Factual and Procedural Background

Petitioners filed the instant action for habeas corpus relief pursuant to 28 U.S.C. § 2241 on April 27, 2020. ECF No. 1. In their petition, Petitioners expressly allege significant delays and other deficiencies with FCI Danbury's system for responding to prisoners' requests for medical care and, specifically, allege deficiencies in FCI Danbury's system to responding to "sick call requests" from prisoners. *See* ECF No. 1 at ¶ 36.e. (describing sick call system at FSL), ¶ 37.d. (same for Camp), ¶ 38.f. (same for FCI, or men's facility), ¶ 129 (alleging that "[s]ince the lockdown began, sick call triage in the men's facility is conducted by a social worker without medical training, and who is openly contemptuous of the men's need"), ¶ 130 ("At men's and women's facilities, prisoners who present for sick call who do not exhibit fever are denied access to any further medical follow-up"), ¶ 188 ("As a result of the increased attention to the COVID epidemic, non-virus medical needs have gone unattended. The regular prison physicians have been absent or are no longer available to prisoners on the unit, prisoners who do not present with fever during sick call cannot be referred to a physician, and sick call requests for other than virus symptoms go unanswered for prolonged periods of time").

On May 18, 2020, Petitioners served interrogatories and requests for production on Respondent. *See* Exhibit A, attached hereto (Petitioners' Requests for Production); Exhibit B (Petitioners' Interrogatories). Through Request for Production Number 7, Petitioners specifically requested "[a]ll documents concerning sick call requests or other requests made by prisoners for medical care for COVID-19 symptoms since March 1, 2020, and FCI Danbury's responses to these requests, including but not limited to the date(s) of such responses, who examined the prisoner, what (if any) treatment was provided, and the date(s) the treatment was provided." Exh. A at 7. Further, Petitioners' Interrogatory Number 8 asked Respondent to "[s]tate the number of

sick call and other requests for medical care made from prisoners at each of the three facilities (Main Complex, FSL, and Camp) since March 1, 2020 and state, for each facility, for each day since March 1, 2020, the number of prisoners who were seen respectively by a physician, a physician's assistant, or a nurse." Exh. B at 8.

Respondent did not produce sick call requests in response to Petitioners' request for production or provide the specific answers, as requested in the interrogatory, regarding the number of sick call requests *made* since March 1, 2020.<sup>1</sup> Petitioners' counsel raised these deficiencies with Respondent's counsel, who on or around May 29, 2020 informed Petitioners' counsel via telephone that Respondent had failed to preserve paper sick call requests because the facility's practice was to not retain them. Respondent's counsel indicated that the sick call requests would be retained going forward.

On June 3, 2020, Petitioners' counsel deposed Ms. Angela Dukate, the Health Services Administrator at FCI Danbury, both as a fact witness and as the 30(b)(6) witness on FCI Danbury's medical response to the COVID-19. *See* Exhibit C (Excerpt of 06/03/20 Dukate Transcript) at 21-29. Ms. Dukate testified that FCI Danbury had destroyed all sick call requests submitted prior to May 29, 2020. When asked why the facility had failed to preserve these records, Ms. Dukate asserted that she considers the sick call requests *not* medical records because they are, in her view, "informal" and "nothing official." *Id.* at 22-23. Ms. Dukate admitted that FCI Danbury continued to destroy sick calls requests after April 27, 2020, the date in which this action was initiated, and up until either June 1st or 2nd, weeks after Petitioners had requested sick call requests from Respondent through discovery. *See id.* at 29.

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<sup>1</sup> In response to Petitioners' Interrogatory Number 8, Respondent provided the number of prisoners who were treated for sick calls, but did not respond to Petitioners' requests for the number of sick call requests *made*. Without the number of sick call requests made, Petitioners are not able to show how many sick calls were ignored and how many prisoners were not seen in response to such requests.

Respondent has now produced sick call requests submitted in June 2020.<sup>2</sup> Contrary to Ms. Dukate's testimony, the requests are on a medical form, contain medical information from the inmate-patient and the health care provider, and reflect the date the request was submitted and the date that the inmate was subsequently seen. They are plainly records that form a part of each inmate's medical records.<sup>3</sup>

Not only did the pleadings and discovery requests in this case put Respondent on notice of her obligation to preserve sick call requests, the Bureau of Prisons independently has the responsibility to preserve medical records such as requests for medical care. The National Commission on Correctional Health Care (NCCHC), which accredits some BOP facilities, sets forth that “[w]ithout documentation of these steps, it is not possible to evaluate the responsiveness of your sick-call system, and if you are seeking accreditation, to determine if you are in compliance. Request slips are usually filed in the health records and begin the documentation trail. If you do not file the slips in the record, a log may be kept to monitor the stages of the response. The log needs to include the request date, date and result of triage, date of the sick-call visit if required, etc.”<sup>4</sup> The NCCHC further recommends that jails and prisons maintain documentation of compliance for three years.<sup>5</sup>

Finally, but importantly, the Bureau of Prisons was put on notice of the relevance of sick call requests to COVID-19 litigation in another case relating to the Metropolitan Detention Center (MDC) in Brooklyn, New York. That suit, alleging deficiencies in the sick call system, was filed on March 27, 2020,<sup>6</sup> and by May 1, 2020 the media had publicized the destruction of

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<sup>2</sup> Respondent has provided a few sick call requests dated prior to June 2020 that were not, for some unknown reason, destroyed.

<sup>3</sup> Attached, as Exhibit D, is a (redacted) sick call request form (for June 1, 2020) produced by Respondent.

<sup>4</sup> FAQ, Documentation, National Commission on Correctional Health Care, available at: <https://www.ncchc.org/documentation>.

<sup>5</sup> *Id.*

<sup>6</sup> See ECF No. 1, *Chunn v. Edge*, 1:20-cv-01590-RPK-RLM (E.D.N.Y. Mar. 27, 2020).

sick call requests.<sup>7</sup> The destruction of the records was the subject of extensive court filings and testimony in the MDC case.<sup>8</sup> In other words, for over one month after it was publicized that a federal jail was improperly destroying requests for medical care, BOP staff continued to destroy sick call requests from prisoners at FCI Danbury.

## II. Argument

“Spoliation is the destruction or significant alteration of evidence, or the failure to preserve property for another’s use as evidence in pending or reasonably foreseeable litigation.” *Thomas v. Butkiewicz*, 3:13-CV-747 (JCH), 2016 WL 1718368, at \*7 (D. Conn. Apr. 29, 2016) (quoting *West v. Goodyear Tire & Rubber Co.*, 167 F.3d 776, 779 (2d Cir. 1999)). If there is a discovery order, a court may impose sanctions pursuant to Federal Rule of Civil Procedure 37. *Id.* However, traditionally, and absent a court order, a district court can impose sanctions on a spoliating party based on the court’s inherent power to control the judicial process and litigation. *Id.* A court has broad discretion to fashion appropriate sanctions when spoliation occurs. *Id.*

Sanctions for spoliation should aim to: (1) deter parties from engaging in spoliation; (2) place the risk of an erroneous judgment on the party who wrongfully created the risk; and (3) restore the prejudiced party to the same position he would have been in absent the wrongful destruction of evidence by the opposing party. *Id.* “Where, as here, the nature of the alleged breach of a discovery obligation is the non-production of evidence, a district court has broad discretion in fashioning an appropriate sanction, including the discretion to delay the start of a trial (at the expense of the party that breached its obligation), to declare a mistrial if trial has

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<sup>7</sup> Nick Pinto, *Medical Expert: Federal Jail Intentionally Destroying Medical Records and Hiding Extent of Coronavirus Behind Bars*, THE INTERCEPT (May 1, 2020), available at: <https://theintercept.com/2020/05/01/mdc-brooklyn-jail-coronavirus-medical-records/>.

<sup>8</sup> See, e.g., ECF No. 86, *Chunn v. Edge*, 1:20-cv-01590-RPK-RLM (E.D.N.Y. May 9, 2020); ECF No 89 (May 10, 2020).

already commenced, or to proceed with a trial and give an adverse inference instruction.”

*Residential Funding Corp. v. DeGeorge Fin. Corp.*, 306 F.3d 99, 107 (2d Cir. 2002). An adverse inference instruction is appropriate where: “(1) the party having control over the evidence had an obligation to preserve it at the time it was destroyed; (2) that the records were destroyed with a culpable state of mind; and (3) that the destroyed evidence was relevant to the party’s claim or defense such that a reasonable trier of fact could find that it would support that claim or defense.” *Id.* (quoting *Chin v. Port Auth. of N.Y. & N.J.*, 685 F.3d 135, 162 (2d Cir. 2012)). The “culpable state of mind” factor is “satisfied by a showing that the evidence was destroyed “knowingly, even if without intent to [breach a duty to preserve it], or negligently.” *Residential Funding Corp. v. DeGeorge Fin. Corp.*, 306 F.3d 99, 108 (2d Cir. 2002).

Petitioners easily meet all three prongs for the sanction sought through this motion. First, there can be no dispute that Respondent had a duty to preserve paper sick calls. Paper sick calls are an important way in which prisoners at FCI Danbury alert the facility that they have a medical problem as they constitute records of prisoners documenting their medical issues and seeking medical help. For this reason, the NCCHC provides that jails and prisons retain documentation of compliance with sick call requests for three years. Even assuming that FCI Danbury’s pre-April 27 practice of destroying sick call requests was permissible (which Petitioners’ dispute), Respondent had an obligation to preserve sick call requests once she reasonably anticipated litigation to which the requests were relevant. *Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212, 218 (S.D.N.Y. 2003) (“Once a party reasonably anticipates litigation, it must suspend its routine document retention/destruction policy and put in place a “litigation hold” to ensure the preservation of relevant documents.”) As such, Respondent’s litigation duty

to preserve the sick call requests arose at the latest on April 27 when the instant action was filed. See ECF No. 1.

Second, Respondent has acted with the requisite culpable mind. “[O]nce the duty to preserve attaches, any destruction [of relevant evidence] is, at a minimum, negligent.” *Slovin v. Target Corp.*, No. 12 CV 863 (HB), 2013 WL 840865, at \*4 (S.D.N.Y. Mar. 7, 2013) (quoting *Zubulake*, 220 F.R.D. at 220). Here, however, there is evidence for finding an intentional destruction of sick calls. Respondent destroyed evidence not only contrary to applicable correctional standards and a complaint alleging deficiencies in FCI Danbury’s medical care response, it did so also after receiving specific discovery requests from Petitioners seeking the requests and information about them. Compare Exhibits A-B (discovery requests propounded on May 18) with Exhibit C (Dukate deposition confirming destruction of sick call requests up until June 1 or 2).

Third, the sick call requests go to a critical issue in this case; namely, whether Respondent was deliberately indifferent in providing medical care in response to the COVID-19 pandemic’s impact on the facility. Petitioners have alleged and intend to establish that, despite being aware of the importance of medical care during a pandemic that has already killed over 100,000 people in the United States, Respondent’s sick call system regularly ignored or delayed in responding to prisoners’ requests for medical care. Such a response not only subjects putative class members to an unreasonable risk of serious injury or death, the response during the pandemic is at the very least reckless as to the risk of serious injury or death. Indeed, other courts in this Circuit have held that prison officials’ disregard of sick-call requests may be evidence of deliberate indifference. See *e.g.*, *Aikens v. Rao*, 13-CV-1088S, 2015 WL 5919950, at \*2 (W.D.N.Y. Oct. 9, 2015) (evidence of ignoring sick call requests sufficient for reasonable jury to

find that defendants acted deliberately in denying plaintiff treatment); *Myers v. Dolac*, No. 09 Civ. 6642, 2013 WL 5175588, \*12 (W.D.N.Y. 2013) (ignoring or destroying sick call requests, if proved, sufficient for jury to conclude that defendant knew of plaintiff's medical condition and acted deliberately to deny plaintiff treatment).

The sanction sought here is a reasonable and appropriate one, as Petitioners are prejudiced by Respondent's spoliation. The destruction of the paper sick call requests prevents Petitioners from confirming through contemporaneous documentation the testimony of Danbury inmates of the inordinate delays between their submission of their sick call requests and the dates of response by BOP staff at FCI Danbury. Even worse, Respondent's spoliation prevents Petitioners from proving those requests for medical care that BOP staff at FCI Danbury completely ignored. Both of these forms of prejudice warrant remedial action through a Court order.<sup>9</sup>

Because Petitioners now are prevented from establishing through documentary evidence that requests for sick call were ignored or that there were significant delays in response to the requests for care, an appropriate sanction in this case is to preclude Respondent from disputing that the sick call system at FCI Danbury timely and adequately responds to prisoners' requests for medical care at FCI Danbury. Because the Court is the trier of fact, and this matter is not going to a jury, an adverse inference instruction is not an appropriate sanction. Rather, a sanction in the form of precluding Respondent from disputing this issue would more adequately restore

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<sup>9</sup> Petitioners anticipate that Respondent will claim that its production of the "Activities Report," a document which lists the dates of clinical encounters with prisoners, cures any potential prejudice. This is incorrect for multiple reasons. First, the Activities Report does not contain the date that a paper sick call request was submitted by the prisoner. Second, after conferring with Ms. Dukate, Respondent's counsel has informed Petitioner's counsel that the date the sick call request was made is not saved in the computer system once a patient is seen. Finally, Ms. Dukate testified at her deposition that not all sick call requests are entered into this system. Accordingly, Petitioners cannot rely on the Activities Report as evidence probative of when prisoners made sick call requests and how long it took to be seen.

Petitioners to the “position [they] would have been in but for [Respondent’s] wrongful destruction of evidence.” *Kronisch v. United States*, 150 F.3d 112, 126 (2d Cir. 1998) (“It is a well-established and long-standing principle of law that a party’s intentional destruction of evidence relevant to proof of an issue at trial can support an inference that the evidence would have been unfavorable to the party responsible for its destruction”). Such a sanction would also serve the other purposes of sanctions for spoliation, including deterring spoliation in the future and placing the risk of an erroneous judgment on the party who wrongfully created that risk. *Kronish*, 150 F.3d at 126.

For the reasons stated above, the Court should grant Petitioners’ motion for sanctions and preclude Respondent from disputing that the sick call system at FCI Danbury failed to adequately and timely respond to prisoners’ requests for medical care at FCI Danbury.

Dated June 8, 2020

Respectfully Submitted,

/s/

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# EXHIBIT A

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

DIANTHE MARTINEZ-BROOKS,	:	
REJEANNE COLLIER, JACKIE	:	
MADORE and KENNETH CASSIDY,	:	
Individually, and on behalf of all others	:	
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v.	:	Civ. No. 3:20-cv-00569-MPS
	:	
D. EASTER, Warden of Federal	:	
Correctional Institute at Danbury, and	:	
MICHAEL CARVAJAL, Director of the	:	
Federal Bureau of Prisons, in their official	:	
Capacities	:	
	:	
Respondents.	:	May 18, 2020

**PETITIONERS' FIRST REQUESTS FOR PRODUCTION TO  
RESPONDENT WARDEN DIANE EASTER**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Petitioners Dianne Martinez-Brooks, Rejeanne Collier, Jackie Madore and Kenneth Cassidy (“Petitioners”), by and through their undersigned counsel, serve the following First Set of Requests for Production of Documents (“Requests”) upon Respondent Diane Easter, sued in her official capacity as the Warden of the Federal Correctional Institution at Danbury, Connecticut (“FCI Danbury”). Respondent is required to serve any objections to these Requests on or before May 22, 2020 and produce all documents or other tangible things in response to these Requests on or before May 25, 2020 by electronic delivery to Jonathan Levine, Silver Golub & Teitell LLP, [jlevine@sgtlaw.com](mailto:jlevine@sgtlaw.com).

## DEFINITIONS

The uniform definitions for discovery requests set forth in Rule 26 of the Local Civil Rules of the United States District Court for the District of Connecticut, shall apply to these Requests.

1. “BOP” means the Federal Bureau of Prisons, including all of its officers, employees, agents, representatives and other persons acting on its behalf.
2. “FCI Danbury” refers to the Federal Correctional Institution on Route 37 in Danbury, Connecticut, including all of its officers, employees, agents, representatives and other persons acting on its behalf, and includes the male low security level correctional institution (“Main Complex”), female federal satellite low security level facility (“FSL”), and female minimum security level federal prison camp (“Camp”).
3. “Prisoner” refers to any person who is currently, or has previously been, detained or incarcerated at FCI Danbury.
4. “Staff Member” refers to a person working within FCI Danbury, including but not limited to a federal employee or an outside contractor.
5. “COVID-19” refers to the disease COVID-19 as well as the virus SARS-CoV-2.
6. “Test for COVID-19” refers to a laboratory test for COVID-19 that makes use of respiratory specimens, saliva, blood, plasma, antibodies, or other tissue samples from a person. It does not refer to temperature checks or other non-laboratory measurements, or to self-reporting of symptoms that are indicative of possible COVID-19 infection.
7. “COVID-19 symptoms” means any symptoms of COVID-19 as defined by the Centers for Disease Control and Prevention (“CDC”), including but not limited to fever, chills, coughing, sore throat, loss of taste or sense of smell, headaches, and difficulty breathing.

8. “Vulnerable to COVID-19” means (A) people who are at higher risk for severe illness due to COVID-19, including people who are aged 65 or over and/or who have any of the following conditions specifically identified by the United States Centers for Disease Control as putting them at higher risk for severe illness from COVID-19: (i) chronic lung disease including moderate to severe asthma, COPD, emphysema, chronic bronchitis, idiopathic pulmonary fibrosis and/or cystic fibrosis; (ii) immunocompromised status, including status as a transplant recipient, on chemotherapy, HIV positive, prolonged use of corticosteroids, using immunosuppressive medication, and/or having an immune deficiency; (iii) severe obesity (BMI of 40 or higher); (iv) diabetes mellitus Type I or Type II, (v) gestational diabetes mellitus; (vi) chronic kidney disease on dialysis; (vii) chronic liver diseases, cirrhosis; and/or serious heart conditions, including congestive heart failure, coronary artery disease, congenital heart disease, cardiomyopathy, and/or pulmonary hypertension; or (B) any other people who were determined by FCI Danbury to be, or treated by the FCI Danbury as, vulnerable to COVID-19.

9. “PPE” refers to personal protective equipment, including but not limited to respirators, masks, gloves, face shields, and positive pressure suits.

## INSTRUCTIONS

1. Each Request shall operate and be construed independently. No Request shall limit the scope of any other Request, unless otherwise specified.
2. Your response to each Request shall either produce all documents responsive to the Request or state that inspection, copying, and related activities will be permitted at the time and place designated, unless the Request is objected to, in which event the reasons for objection, including any claims of privilege, shall be stated in sufficient detail to permit Petitioners to evaluate the validity of the objection and privilege asserted.
3. Documents produced in response to these Requests shall be produced as they are kept in the usual course of business, or according to the particular document Request number, type, or category to which they are responsive.
4. Electronically stored information shall be produced in Native Format. If electronically stored information does not exist in its Native Format, it shall be produced as either a PDF or a TIFF file.
5. Each Request for production of documents extends to all documents in your possession, custody, or control or in the possession, custody, or control of anyone acting on your behalf. A document is in your possession, custody, or control if it is in your physical custody, or if it is in the physical custody of any other person and you (a) own such document in whole or in part; (b) have a right, by contract, statute, or otherwise, to use, inspect, examine, or copy such document on any terms; (c) have an understanding, express or implied, that you may use, inspect, examine or copy such document on any terms; or (d) can, as a practical matter, use, inspect, examine or copy such document when you seek to do so.

6. If a document or thing is responsive to more than one Request, the document needs to be produced only once.

## **REQUESTS FOR PRODUCTION OF DOCUMENTS**

1. All documents concerning BOP's or FCI Danbury's policies, procedures, guidance, guidelines, directives, methods, flowcharts, rubrics, or practices related to COVID-19, including but not limited to screening, testing, social distancing, hygiene, sanitation, personal protective equipment, medical treatment, contact tracing, isolation, quarantine, and identification of staff members or prisoners who are vulnerable to COVID-19 or at elevated risk for COVID-19 by virtue of their age, medical histories, recent travel, recent exposure, or other factors. For any posters, bulletins, memoranda, training materials, or other documents that have been displayed or provided to prisoners or staff members with information concerning COVID-19, include records showing the date and means by which each such document was made available to prisoners or staff members.

2. All documents concerning COVID-19 testing of prisoners and staff members including requests for and receipt of tests, performance of tests, results of tests, and notification regarding test results since March 1, 2020.

3. All lists, logs, or other documents showing temperature readings of prisoners and staff members taken since March 1, 2020.

4. Documents sufficient to determine staffing from March 1, 2020 to the present including the number of staff members assigned to each facility (Main Complex, FSL, and Camp) on each date and requests by a staff member to take time off for COVID-19 related reasons.

5. Any documents concerning the identification by BOP or FCI Danbury since March 1, 2020 of prisoners who are or were vulnerable to COVID-19, including, all policies or

protocols governing such determinations, any lists of such prisoners, and any communication to such prisoner that he or she has or had been so identified.

6. All documents concerning the number of prisoners evaluated by medical staff in each of the facilities (Main Complex, FSL, and Camp) on each day since March 1, 2020 for COVID-19 symptoms including symptoms reported at each visit, diagnoses made, and any treatment provided.

7. All documents concerning sick call requests or other requests made by prisoners for medical care for COVID-19 symptoms since March 1, 2020, and FCI Danbury's responses to these requests, including but not limited to the date(s) of such responses, who examined the prisoner, what (if any) treatment was provided, and the date(s) the treatment was provided.

8. Documents sufficient to determine the number of requests submitted by medical staff for outside consultations or procedures for prisoners that are currently pending, including the date each request was submitted and whether the request was marked as "urgent" or "routine."

9. Documents sufficient to identify and determine all medical staff members' time and attendance at FCI Danbury on each date from March 1, 2020 to the present.

10. All documents concerning FCI Danbury's evaluation of prisoners potentially eligible for release under 18 U.S.C. § 3622, 18 U.S.C. § 3624, 18 U.S.C. § 3582, Attorney General William Barr's memoranda dated March 26, 2020 and April 3, 2020, and all other applicable legal authorities, including but not limited to all policies or protocols governing such determinations, any prisoner requests for such relief, which prisoners were evaluated for such relief, the information considered (including but not limited to medical assessments of the requesting prisoners) by FCI Danbury in connection with such evaluations, the results of such

evaluations, and communication with prisoners regarding the results. The documents requested include, but are not limited to, medical review forms, Coronavirus Aid, Relief, and Economic Security Act forms, or other evaluation forms used or prepared in connection with such evaluations.

11. Documents sufficient to show the size and physical layout of FCI Danbury, by building and room, since March 1, 2020 and all photographs or videos taken within FCI Danbury since March 1, 2020, for the purpose (in whole or in part) of documenting the appearance and/or conditions of the facility, its prisoners or its staff members, all as they relate to actions taken or not taken by the FCI Danbury in connection with COVID-19.

12. All documents concerning grievances or other complaints by prisoners or staff members since March 1, 2020 related to COVID-19, including but not limited to grievances or complaints concerning personal hygiene supplies, cleaning supplies, hygiene practices of staff members, cleanliness of the facility, personal protective equipment, crowding/space, isolation and quarantining practices, testing, responses to prisoner requests for medical treatment, and medical treatment of prisoners suffering from or exhibiting symptoms relating to COVID-19.

13. Documents sufficient to show how much PPE was received at FCI Danbury from February 1, 2020 through the present broken down by type of PPE, including purchasing orders for PPE.

14. Documents reflecting any communication from or to medical staff members at FCI Danbury concerning FCI Danbury's response to the COVID-19 pandemic including but not limited to communication concerning COVID-19 testing, staffing and equipment needs, and isolation and quarantine protocol.

15. Documents reflecting any communication between FCI Danbury staff members and any of the following: BOP, any member of the U.S. Congress, the U.S. Department of Health and Human Services, the Centers for Disease Control and Prevention, and any other federal agency; or any state and local public health authorities or other governmental entities, including but not limited to the Connecticut Department of Health and the City of Danbury Health Department, from February 1, 2020 to the present relating to FCI Danbury's response to the COVID-19 pandemic.

16. All logs, or other documents setting forth all cleaning and disinfection conducted at FCI Danbury since March 1, 2020.

17. All documents and communications relating or referring to any discipline or warnings, whether formal or informal, issued to staff members for their failure to comply with FCI Danbury's policies or protocols related to COVID-19.

18. Documents sufficient to identify any discipline or warnings, whether formal or informal, issued since March 1, 2020 to any prisoner at FCI Danbury who filed a grievance or made a complaint or protest, whether written or oral, concerning the lack of social distancing, the lack of PPE or sanitation supplies, or other failure of FCI Danbury to protect the facility from COVID.

19. All medical records for each of the named Petitioners.

20. To the extent not provided in response to any prior Request for Production, copies of any policies, procedures, guidance, guidelines, or protocols concerning:

- a. How staff members (whether medical or non-medical) should respond when a prisoner complains of COVID-19 symptoms;

- b. The response when FCI Danbury learns that a staff member has been exposed or come into close contact with COVID-19, including any protocols governing notification and testing of the affected staff member;
- c. Identification and confirmation of potential cases of COVID-19, including all protocols for when and how to conduct temperature checks, specification of temperature recording devices to be used, and what temperature FCI Danbury considers to be elevated or febrile;
- d. Implementing social distancing among prisoners;
- e. Monitoring of prisoners who have tested positive for COVID-19, including determining whether a prisoner with COVID-19 needs to go to the hospital, and determining whether and when a prisoner who had previously tested positive for COVID-19 is no longer infectious;
- f. Cleaning and sanitizing areas known to have COVID-19 contamination, including the bedding and living area of prisoners who have tested positive for COVID-19;
- g. Cleaning and disinfecting commonly touched areas, including computers, telephones, faucets, and bathrooms;
- h. Distributing and storing PPE, including all policies for discarding and replacing damaged, unsanitary, worn out or lost PPE;
- i. PPE or hygiene protocol for staff and prisoners who move between housing units and facilities.
- j. Testing and quarantining new admissions.

Dated May 18, 2020

Respectfully Submitted,

Petitioners  
By Their Attorneys

/s/ David S. Golub

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\*Application for Admission Pending

**CERTIFICATE OF SERVICE**

I hereby certify pursuant to Federal R. Civ. P. 5(b) that on May 18, 2020, a copy of foregoing Petitioners' First Set of Requests for Production was served upon Respondents' counsel of record, by email.

/s/ Sarah F. Russell  
Sarah F. Russell, ct26604  
Petitioners' Counsel

# EXHIBIT B

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

DIANTHE MARTINEZ-BROOKS,	:	
REJEANNE COLLIER, JACKIE	:	
MADORE and KENNETH CASSIDY,	:	
Individually, and on behalf of all others	:	
similarly situated,	:	
	:	
Petitioners,	:	
	:	
v.	:	Civ. No. 3:20-cv-00569-MPS
	:	
D. EASTER, Warden of Federal	:	
Correctional Institute at Danbury, and	:	
MICHAEL CARVAJAL, Director of the	:	
Federal Bureau of Prisons, in their official	:	
Capacities	:	
	:	
Respondents.	:	May 18, 2020

**PETITIONERS’ FIRST SET OF INTERROGATORIES**  
**TO RESPONDENT WARDEN DIANE EASTER**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Petitioners Dianthe Martinez-Brooks, Rejeanne Collier, Jackie Madore and Kenneth Cassidy (“Petitioners”), by and through their undersigned counsel, serve the following First Set of Interrogatories (“Interrogatories”) upon Respondent Diane Easter, sued in her official capacity as the Warden of the Federal Correctional Institution at Danbury, Connecticut (“FCI Danbury”). Respondent is required to answer the Interrogatories separately and fully in writing, under oath, and is further required to serve a copy of objections to these Interrogatories on or before May 22, 2020 and answers on or before May 25, 2020 electronic delivery to Jonathan Levine, Silver Golub & Teitell LLP, [jlevine@sgtlaw.com](mailto:jlevine@sgtlaw.com).

## DEFINITIONS

The uniform definitions for discovery requests set forth in Rule 26 of the Local Civil Rules of the United States District Court for the District of Connecticut shall apply to these Interrogatories.

1. “BOP” means the Federal Bureau of Prisons, including all of its officers, employees, agents, representatives and other persons acting on its behalf.
2. “FCI Danbury” refers to the Federal Correctional Institution in Danbury, Connecticut, including all of its officers, employees, agents, representatives and other persons acting on its behalf, and includes the male low security level correctional institution (“Main Complex”), female federal satellite low security level facility (“FSL”), and female minimum security level federal prison camp (“Camp”).
3. “Prisoner” refers to any person who is currently, or has previously been, or at any point in this litigation is detained or incarcerated at FCI Danbury.
4. “Staff Member” refers to any person working within FCI Danbury, including but not limited to a federal employee or an outside contractor.
5. “COVID-19” refers to the disease COVID-19 as well as the virus SARS-CoV-2.
6. “Test for COVID-19” refers to a laboratory test for COVID-19 that makes use of respiratory specimens, saliva, blood, plasma, mucus, or other tissue samples from a person. It does not refer to temperature checks or other non-laboratory measurements, or to self-reporting of symptoms that are indicative of possible COVID-19 infection.
7. “COVID-19 symptoms” means any symptoms of COVID-19 as defined by the Centers for Disease Control and Prevention (“CDC”), including but not limited to fever, chills, coughing, sore throat, loss of taste or sense of smell, headaches, and difficulty breathing.

8. “Vulnerable to COVID-19” means (A) people who are at higher risk for severe illness due to COVID-19, including people who are aged 65 or over and/or who have any of the following conditions specifically identified by the United States Centers for Disease Control as putting them at higher risk for severe illness from COVID-19: (i) chronic lung disease including moderate to severe asthma, COPD, emphysema, chronic bronchitis, idiopathic pulmonary fibrosis and/or cystic fibrosis; (ii) immunocompromised status, including status as a transplant recipient, on chemotherapy, HIV positive, prolonged use of corticosteroids, using immunosuppressive medication, and/or having an immune deficiency; (iii) severe obesity (BMI of 40 or higher); (iv) diabetes mellitus Type I or Type II, (v) gestational diabetes mellitus; (vi) chronic kidney disease on dialysis; (vii) chronic liver diseases, cirrhosis; and/or serious heart conditions, including congestive heart failure, coronary artery disease, congenital heart disease, cardiomyopathy, and/or pulmonary hypertension; or (B) any other people who were determined by FCI Danbury to be, or treated by the FCI Danbury as, vulnerable to COVID-19.

9. “PPE” refers to personal protective equipment, including but not limited to respirators, masks, gloves, face shields, and positive pressure suits.

## INSTRUCTIONS

1. In answering the Interrogatories, provide all information that is within your knowledge, or which is available after a reasonable investigation.
2. If you cannot answer an Interrogatory in full or in part after conducting a reasonable investigation, state the efforts you have made to obtain the requested information.
3. For any information no longer available, recallable, or locatable, identify the information, state how and when it became unavailable and the reasons therefor, and identify each person having knowledge relating to the disposition or loss of the information.
4. Each Interrogatory shall operate and be construed independently. No Interrogatory shall limit the scope of any other Interrogatory.
5. To the extent that you consider any of the following Interrogatories to be objectionable, answer that portion of the Interrogatory to which you have no objection and separately state the portion of the Interrogatory to which you lodge an objection, stating the specific grounds for your objection.
6. If you encounter what you believe to be any ambiguity in an Interrogatory, Definition, or Instruction herein, you shall make best efforts to interpret the Interrogatory, Definition, or Instruction within the context of the subject matter of this action and shall set forth the matter deemed ambiguous, and the construction or interpretation chosen or used in responding to the Interrogatory.
7. If you believe that documents in your possession, custody or control contain information that is fully responsive to an Interrogatory, you may produce those documents instead of a written response to the Interrogatory and indicate in your response that you are doing so and identify the documents being produced in response.

8. The Interrogatories call for all information that is in your possession, custody, or control, including all information held by your agents, employees, attorneys, investigators, or other representatives. In answering, you must furnish all information available. If any information responsive to an Interrogatory exists but is not in your possession, custody, or control, please so indicate and identify the person currently having possession, custody, or control of such information.

9. The answers to these Interrogatories shall be signed by you and any objections shall be signed by the attorney(s) making them.

### INTERROGATORY REQUESTS

1. Identify all prisoners who received a COVID-19 test at Danbury FCI since March 1, 2020, and, for each prisoner tested state:
  - a. the date the test was performed;
  - b. the facility and unit where the prisoner was housed at the time of the test;
  - c. the type of test used;
  - d. the result of the test; and
  - e. for each prisoner who tested positive, the dates and locations where the prisoner has been housed since the time of the test including the dates of any trips to the hospital or to an outside medical provider.

**RESPONSE:**

2. Identify all units, dorms, rooms, or other locations within FCI Danbury that have been used to isolate prisoners who tested positive for COVID-19 since March 1, 2020, and, for each such space, state the dates on which the location has been used for isolation of COVID-19 positive prisoners, and the number of prisoners housed in each location on each day such unit was used for isolation, and the capacity of the location.

**RESPONSE:**

3. Identify all units, dorms, rooms or other locations within FCI Danbury that have been used to isolate or quarantine prisoners for reasons relating to COVID-19 other than a positive COVID-19 test (e.g., isolation of those experiencing symptoms or suspected of being positive, isolation of those who were in close contact with persons known to have been positive

for COVID-19, quarantine of those leaving for home confinement, or quarantine of those arriving at the facility), and for each such space state the particular purpose for which the space was so used, dates on which the space has been used for that particular purpose, the number of prisoners housed in each such location on each day such space was used for such purpose, and the capacity of the space.

**RESPONSE:**

4. For each space or location identified in response to Interrogatories Nos. 2 and 3, state whether the occupants of those spaces accessed other parts of FCI Danbury at any time during their stay in that space, and whether prisoners not assigned to that space entered that space at any time while it was being used for isolation or quarantine.

**RESPONSE:**

5. Identify all staff members who have tested positive for COVID-19 since March 1, 2020 and for each such staff member state the dates since March 1, 2020 that the staff member worked at FCI Danbury and, for each date worked, the units in which such staff member worked, and whether the staff member rotated between units on any particular shift.

**RESPONSE:**

6. Identify all medical personnel working at FCI Danbury since March 1, 2020, specifying each such person's job title and medical qualifications, role in providing medical care at FCI Danbury, foreign language abilities, and the dates and hours such medical staffer was on duty since March 1, 2020.

**RESPONSE:**

7. Identify all prisoners who, since March 1, 2020, have been identified as having COVID-19 symptoms and, for each such prisoner, state whether such prisoner was moved to some form of isolation, where the prisoner was transferred for such isolation, the dates of such isolation, and any medical treatment provided to the prisoner during such isolation.

**RESPONSE:**

8. State the number of sick call and other requests for medical care made from prisoners at each of the three facilities (Main Complex, FSL, and Camp) since March 1, 2020 and state, for each facility, for each day since March 1, 2020, the number of prisoners who were seen respectively by a physician, a physician's assistant, or a nurse.

**RESPONSE:**

9. For each housing unit or dorm at FCI Danbury, state the number of prisoners currently housed in the unit or dorm, the capacity of the unit or dorm, the type of the housing in the unit (i.e., dorm-style or cellblock), the number of toilets, sinks, showers, telephones, and computers available to prisoners in the unit.

**RESPONSE:**

10. Identify the types and amount of PPE and other medical equipment and supplies, and the amounts of each, that are available on premises for use at FCI Danbury for the detection, treatment, or prevention of COVID-19, including but not limited to thermometers, swabs, kits for

conducting Tests for COVID-19, oximeters, oxygen tanks, nasal cannulae, ventilators, masks, gloves, gowns, goggles, and face shields.

**RESPONSE:**

11. For each of the three facilities at FCI Danbury, identify each prisoner who has been considered for home confinement under Attorney General Barr's March 26, 2020 and April 3, 2020 memoranda, and state as to each whether the prisoner was approved or rejected for home confinement, the date(s) of each such determination, and reason(s) for any rejection.

**RESPONSE:**

12. Describe whether FCI Danbury has consulted with or received guidance from public health professionals regarding strategies to strengthen the COVID-19 related protocol and education program for both staff and prisoners, and, if so, identify the names and titles of these professionals, describe their recommendations and strategies and whether the recommendations and strategies been implemented.

**RESPONSE:**

13. To the extent that any policies or protocols requested in the attached Requests for Production are not maintained in written form, identify each such non-written policy or protocol and describe its substance.

**RESPONSE:**

Dated May 18, 2020

Respectfully Submitted,

Petitioners  
By Their Attorneys

/s/ David S. Golub

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Kenneth Cassidy*

\*Application for Admission Pending

**CERTIFICATE OF SERVICE**

I hereby certify pursuant to Federal R. Civ. P. 5(b) that on May 18, 2020, a copy of foregoing Petitioners' First Set of Interrogatories was served upon Respondents' counsel of record, by email.

/s/ Sarah F. Russell  
Sarah F. Russell, ct26604  
Petitioners' Counsel

# EXHIBIT C

**DIANTHE MARTINEZ-BROOKS -against- D. EASTER**  
**Angela Dukate on 06/03/2020**

30(b)(6)

1 UNITED STATES DISTRICT COURT  
 DISTRICT OF CONNECTICUT  
 2 -----X  
 DIANTHE MARTINEZ-BROOKS,  
 3 REEJEANNE COLLIER,  
 JACKIE MADORE;  
 4 and KENNETH CASSIDY,  
 Individually, and on  
 5 Behalf of All Others  
 Similarly Situated, Civ. No.  
 6 3:20-cv-00569-MPS

7 PETITIONERS,  
 8 -against-

9 D. EASTER, Warden of Federal  
 Correctional Institution at Danbury,  
 10  
 11 RESPONDENT.  
 -----X

12  
 13 DATE: June 3, 2020  
 14 TIME: 12:47 P.M.  
 15  
 16

17 DEPOSITION of the Respondent, by a  
 18 witness, ANGELA DUKATE, taken pursuant to Rule  
 19 30(b)(6) of the Federal Rules of Civil  
 20 Procedure, taken by the Petitioner, held  
 21 remotely using Zoom, before a Notary Public of  
 22 the State of Connecticut.  
 23  
 24  
 25

**DIANTHE MARTINEZ-BROOKS -against- D. EASTER**

**Angela Dukate on 06/03/2020**

**30(b)(6)**

**Page 2**

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**DIANTHE MARTINEZ-BROOKS -against- D. EASTER**  
**Angela Dukate on 06/03/2020**

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Page 3

1 APPEARANCES (Continued):

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6 BY: NATHANIEL PUTNAM, ESQ.

7 DAVID NELSON, ESQ.

8

9 Also present:

10 ALEXANDRA HARRINGTON

11 STEPHANIE SCENNEL-VESSELLA, BOP

12

13 \* \* \*

14

15

16

17

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24

25

**DIANTHE MARTINEZ-BROOKS -against- D. EASTER**  
**Angela Dukate on 06/03/2020**

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1 shelf or anything like that.

2 Q. So we've been provided -- and we'll  
3 show you some of these in a little bit --  
4 we've been provided some documents that some  
5 are called clinical encounters, some are  
6 called activity logs, some are called  
7 consultation reports. Are you familiar with  
8 those documents?

9 A. Yes.

10 Q. And how are those documents  
11 prepared?

12 A. Anybody that has access can actually  
13 pull up reports or print out clinical  
14 encounters.

15 Q. So the activities report form makes  
16 reference to sick call triage among other  
17 things. Are you familiar with that term?

18 MR. PUTNAM: If we're referring to a  
19 document can we put it up on the screen?  
20 Because I think there may be different  
21 documents that say "activity report" on  
22 it. So I could get -- do you have a means  
23 to put it up on the screen?

24 MR. GOLUB: I will but I'm not  
25 really doing it for that reason. When I'm

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1 using a document, I'll put it up, Nate.  
2 Right now I'm just kind of doing  
3 background stuff. So if she needs the  
4 document I'm happy to do it. Let me see  
5 where the question's going before we do  
6 that.

7 MR. PUTNAM: Okay.

8 BY MR. GOLUB:

9 Q. Is that a phrase that's used at  
10 Danbury, sick call triage?

11 A. Sick call primarily, yes.

12 Q. And inmates can put a request in for  
13 sick call; correct?

14 A. Yes.

15 Q. Is that done electronically or is  
16 that done on paper by the inmate?

17 A. That's done on paper by the inmate  
18 within a designated timeframe.

19 Q. And that's a medical request by the  
20 inmate to see some medical provider at the  
21 facility; correct?

22 A. Yes.

23 Q. And then is the information from --  
24 withdrawn.

25 And you're aware, are you not, that

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1 the petitioners in this case have asked  
2 Danbury to produce the sick call requests that  
3 were made by the inmates; right?

4 MR. PUTNAM: Object to form. You  
5 can answer.

6 A. Yeah, I mean -- no, I didn't know  
7 that that was specifically in there, that  
8 document. No.

9 Q. Did you help respond to the document  
10 request that the petitioners served in this  
11 case?

12 A. It depends which part you're talking  
13 about.

14 Q. Well, was there a document request  
15 that you were asked to help collect medical  
16 information and medical records in connection  
17 with?

18 A. Yes. Medical records. Definitely  
19 yes.

20 Q. Well, a sick call request is a  
21 medical record; isn't it?

22 MR. PUTNAM: Objection to form.

23 A. No. It's not. It's just a form  
24 that we have created locally. It's not a  
25 government form. It's nothing official. It's

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**Angela Dukate on 06/03/2020****30(b)(6)****Page 23**

1 not anything that's required to be scanned  
2 into the medical record.

3 Q. When you say it's not required, what  
4 does that mean, "not required"? Is there  
5 something that says -- let me rephrase the  
6 question.

7 Is it your testimony that Danbury  
8 has destroyed the sick call requests?

9 A. No. We haven't, like, destroyed it,  
10 from what you're saying. But we have a  
11 process where we have actually created a form.  
12 It's a form we've created at Danbury to help  
13 the inmates make sick calls. I don't recall  
14 exactly what they're making sick call for.  
15 There's even a picture on it they could draw  
16 on of a person. But it's not an official  
17 form. It's just a way -- informal way for an  
18 inmate to let us know exactly what's going on.  
19 And they actually hand those directly to a  
20 medical person so they could actually look at  
21 the form, obtain more information on the form  
22 if need be and then people that need to be  
23 seen the same day or seen the same day and  
24 people that can be seen later are placed on  
25 our scheduler which is a function in our

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1 electronic medical record.

2 Q. So are you saying that the -- who is  
3 it that collects the sick call forms from the  
4 inmates?

5 A. Right now we're going to the units  
6 and collecting them. So primarily --  
7 sometimes I go. But primarily, right now, the  
8 main consistent person has been our dental  
9 hygienist and she's just collecting these  
10 forms to bring them back.

11 Q. How about in March and April?  
12 Who --

13 A. Same. So social worker, dental  
14 hygienist or myself or the dentist were the  
15 primary people who had gone around, depending  
16 who was available to make rounds and collect  
17 the sick call forms.

18 Q. And do I understand you that what  
19 you said is that the person who collects it  
20 will take information from the inmate to get  
21 more information than this on the form?

22 A. If need be, yes.

23 Q. So that's taking a history from the  
24 inmate of what the inmate is complaining about  
25 if it's not clear from the form; is that it?

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1           A.           Or just ask specifically what  
2 they're requesting. For example, I did one  
3 the other day and it just said, "I need to see  
4 a doctor." So I inquired as far as exactly  
5 what do you mean by this, you know, what's  
6 going on versus a generic "I need to see a  
7 doctor."

8           Q.           And then would you note that on the  
9 form?

10          A.           Yes.

11          Q.           Now, does the person who collects  
12 the form make -- is that person responsible  
13 for making the determination about whether the  
14 inmate needs to see somebody right away or  
15 not?

16          A.           No.

17          Q.           Who is responsible for making that  
18 determination?

19          A.           So the forms are brought back and  
20 either the paramedics will triage them or  
21 we'll actually take them to the physician and  
22 ask the physician specifically who they would  
23 like to see and then the rest will go on our  
24 scheduler, which is an electronic function,  
25 and Beamer with a notation specifically why

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1 they're making sick call.

2 Q. So whenever a sick call request is  
3 received and the person is not seen that day  
4 there's an electronic schedule for a future  
5 visit prepared; is that right?

6 A. Yes.

7 Q. And who is responsible for entering  
8 that information into the computer to schedule  
9 it?

10 A. Well, it used to be our health  
11 information technician before she went out.  
12 During her absence we've had the dental  
13 hygienist enter it, social worker enter it,  
14 and the medical assistant who works with the  
15 physician also enter it.

16 Q. And you can tell from your computer  
17 records the date on which every sick call form  
18 is entered into the computer; correct?

19 A. Yeah. They put it in that same day  
20 with that date and then they make a notation  
21 specifically what the inmate is making a sick  
22 call in regards to.

23 Q. And that would be true whether or  
24 not it's an urgent sick call or a deferred  
25 sick call visit, the information from the sick

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1 call form is entered into the computer and  
2 either scheduled for that day or scheduled for  
3 a day in the future; correct?

4 A. No.

5 Q. Okay. What's wrong with what I just  
6 said?

7 A. The urgent ones are seen the same  
8 day. So they're not entered into the  
9 scheduler.

10 Q. So what happens then? How is it  
11 that the inmate gets from whatever unit the  
12 inmate is in to see the doctor -- to see  
13 somebody, I should say -- we'll get to who  
14 that is in a minute -- how does that person  
15 get there on that same day?

16 MR. PUTNAM: Object to form.

17 A. Boy. We actually call them up from  
18 their unit and have them brought up for an  
19 evaluation that same day.

20 Q. And where is that entered?

21 A. That would be the clinical encounter  
22 by the provider that sees them.

23 Q. Is there a way to determine from the  
24 entry in the computer system whether an  
25 encounter was viewed as something that needed

**DIANTHE MARTINEZ-BROOKS -against- D. EASTER**  
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1 to be done on the same day or was it a  
2 deferred encounter?

3 A. Can you repeat the question?

4 Q. Sure.

5 You said some of the sick call  
6 requests would be scheduled out in the future,  
7 some of them would be seen on the day of the  
8 sick call request; correct?

9 A. Yes.

10 Q. Okay. Is there a way to tell from  
11 the computer which is which?

12 A. The ones that are seen the same,  
13 they just have a clinical encounter and you  
14 can in the history or activities report pull  
15 those up and look at the encounter.

16 Q. The ones that are deferred for the  
17 future, what would I see on those?

18 A. You can view them on the scheduler  
19 and then you would be able to look at the  
20 completed ones and go to that clinical  
21 encounter, or if the physician didn't process  
22 it off you can still go under clinical  
23 encounter to see when that person was seen and  
24 look at their encounter.

25 Q. Why is it that the sick call

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1 requests aren't kept?

2 Let me withdraw that.

3 Are they kept now?

4 A. We have started keeping them. Yes.

5 Q. When did you start keeping them?

6 A. I want to say maybe Monday we  
7 started. Monday or Tuesday.

8 Q. You mean two days ago?

9 A. Yes.

10 Q. Today's Wednesday; right?

11 A. Yes.

12 Q. And why did you start keeping them  
13 two days ago?

14 A. It was recommended --

15 MR. PUTNAM: Object to form. But  
16 you can answer.

17 A. It was recommended.

18 Q. Where are you maintaining them now?

19 A. We have the completed ones in a  
20 folder that says completed sick calls and we  
21 have another one for the uncompleted ones in  
22 another folder in medical records.

23 Q. Is it your intention to continue to  
24 maintain these records for the foreseeable  
25 future?

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1 A. For now, yes.

2 Q. So how many inmates are positive for  
3 COVID at Danbury right now?

4 A. 102 total from the beginning when we  
5 started testing in late March.

6 Q. When you say late March, what does  
7 that mean?

8 A. Around March 26th was when we had  
9 our first case that we started testing.

10 Q. I assume you're aware of Attorney  
11 General Barr's April 3, 2020, memorandum  
12 concerning COVID in correctional institutions,  
13 federal correctional constitutions?

14 A. Yes.

15 Q. And did you see that at the time?

16 A. I can't recall the exact date. But  
17 I saw it. It was around that time that it  
18 came out.

19 Q. Whether it was the same day or not  
20 you would have seen it contemporaneously with  
21 its issuance; correct?

22 A. Uh-hmm.

23 Q. Is that yes?

24 A. Yes. Yes.

25 Q. And it was part of your

**DIANTHE MARTINEZ-BROOKS -against- D. EASTER**  
**Angela Dukate on 06/03/2020**

30(b)(6)

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1 responsibilities to be aware of that  
2 memorandum; correct?

3 A. Yes.

4 Q. You actually also saw his March 26th  
5 memorandum as well; correct?

6 A. Yes.

7 Q. And you're aware that in those  
8 memoranda, both of them, Attorney General Barr  
9 identified inmates who are medically  
10 vulnerable to COVID-19 as a group that needed  
11 protection; correct?

12 MR. PUTNAM: Objection to form.

13 A. That's what was indicated in the  
14 memo.

15 Q. Is it correct that the Bureau of  
16 Prisons is a department of the Department of  
17 Justice?

18 A. Yes.

19 Q. So that Attorney General Barr is the  
20 highest-ranking member of the Department of  
21 Justice; correct?

22 A. Yes.

23 Q. So his memoranda were binding on  
24 you; is that correct?

25 A. Yes.

# EXHIBIT D

PROTECTED PURSUANT TO THE PROTECTIVE ORDER  
*SECRET*

DANBURY SICK CALL FORM

DATE: 5-15-2020

NAME: [REDACTED] REG No. [REDACTED] AGE: 45 UNIT: E-A

What is your main complaint? I have been suffer lack of breath

When did your problem begin? between three to four weeks

Have you been seen for this problem before, if YES, who did you see? (officer, medical, etc) \_\_\_\_\_

Where is your medical problem? Nasal cavities

What do you need? (check box)

Idle <input type="checkbox"/>	Test results <input type="checkbox"/>	Follow up <input type="checkbox"/> For _____
Medication renewal <input type="checkbox"/> for _____	Put on CALL-OUT <input checked="" type="checkbox"/>	Medication information <input type="checkbox"/> for _____

Explain your problem below

done

I have diarrhea or vomiting.

I am feeling short of breath:

Use figure in box to show where

I have injury.

I have muscle, joint, or bone pain.

I have skin problem.

I also have. (check box)

Diabetes  High blood pressure  Asthma  Other tuberculosis

For medical staff use only:  
BP \_\_\_/\_\_\_ RR \_\_\_ HR 61 Weight \_\_\_  
Temp 98.0 O2 98 BG \_\_\_

Notes: Need ICB  
Inhaler given  
2 puff 4x a day